AGENDA ITEM NO. 3

CITY OF MORGAN HILL

MEMORANDUM

To: **PLANNING COMMISSION**

Date: June 27, 2006

From: **COMMUNITY DEVELOPMENT DEPARTMENT**

Subject: **Zoning Amendment ZAA-03-03: Foothill-The Institute**

REQUEST

A request for an amendment to a Precise Development Plan for an existing Planned Unit Development (PUD) zone to allow an approximately 167,500 sq. ft. above ground mathematics conference center with a 34,385 sq. ft. underground garage and a new surface parking lot to replace an existing parking lot on an approximately 54 acre site located at 14830 Foothill Avenue (APN's 825-30-007 and 825-29-002).

RECOMMENDATION

Environmental Assessment:	Recommend City Council adoption of an Addendum to the previously certified Environmental Impact Report (EIR)
Application:	Adopt a resolution recommending City Council approval of an amendment to the Precise Development Plan for the PUD zone and an exception to the underground utility requirement.
Processing Deadline:	N/A – The Permit Streamlining Act does not apply to projects requiring legislative acts.

BACKGROUND

In 2004, the City Council certified an EIR and Mitigation Monitoring and Reporting Program (MMRP) and approved a Precise Development Plan as part of a PUD rezoning on the subject parcel to allow the continued operation and maintenance of an 18-hole golf course, the demolition of an existing 58,946 square foot restaurant (former *Flying Lady* restaurant) and replacement with a mathematics conference center of the same size, and the renovation and use of other structures on the project site including: a library, a residence for mathematicians, restroom, caretaker's residence, equipment storage, food service, lecture hall, offices, and a guard building. The PUD ordinance (attached) stipulated that the maximum size of the mathematics conference center was to be 59,000 square feet. Mitigation measures contained in

the EIR were incorporated into the PUD ordinance. (See Exhibit "C" to PUD Ordinance No. 1687, attached, for descriptions of impact types and the full text of each mitigation measure.)

The MMRP mitigation measures apply to all planned improvement activities on the property, including the AIM building, parking lot, etc. The applicant is currently implementing the MMRP and working with the City and responsible regulatory agencies toward compliance with local, state and federal regulations. On April 5, 2006, the City Council accepted a status report regarding implementation of the MMRP (see attached City Council staff report), including a summary by City consultant Pacific Municipal Consultants (PMC) and an action plan by the applicant's consultant Strelow Consulting. (An updated action plan dated June 22, 2006 is attached herein in lieu of the April 5th version.) Planning and compliance activities are moving forward satisfactorily, and at this time it is anticipated that the golf course Site Development and Grading Plan will be considered by the Architectural Review Board (ARB) in Fall 2006. Copies of the Draft/Final EIR, as well as the MMRP are available upon request.

PROJECT DESCRIPTION

The applicant is proposing to amend the previously approved Precise Development Plan and PUD zoning to allow an approximately 167,500 square foot mathematics conference center with a 34,385 square foot subterranean garage containing 76 parking spaces. An existing 121-space parking lot will be replaced with a larger 185-space parking lot. Although the size of the building is proposed to increase, the use of the facility will remain as a non-profit educational conference center for the American Institute of Mathematics (AIM), the operational characteristics of which are more fully described in the previously distributed EIR Addendum.

According to materials submitted with the application, the reasons for the larger building are two-fold: 1) To replicate, as close as possible, *The Alhambra*, a Moorish Castle in Granada, Spain; and, 2) To meet the needs of AIM, which have now been more clearly defined.

CASE ANALYSIS

Comparison to the Previously Approved Project. The following table compares various characteristics of the structure and use to the previously approved project:

AIM Building Characteristic	Approved Project	Proposed Project
Size	58,946 sq. ft.	167,512 sq. ft. with a 34,385 sq. ft. underground garage
Building Coverage	43,780 sq. ft.	70,966 sq. ft.*
Height	2 Stories/ Height not specified	3 Stories with underground garage/62 ft.
Grading	Not specified	79,320 cu. yds. of excavation
Parking	121 spaces	261 spaces (includes 76 spaces in underground garage)

Use Staff Occupancy	10 permanent 24 conf./yr. w/32 mathematicians	15-27 daily/27-55 for major events Day Use: 10-50/day Outreach: 1-5/day Research: 4-24/day Workshops:10-35 (varies) (lg. 50 person workshops=1/yr.) Lectures: 100-145 (varies)

*The existing to proposed building footprint comparison ratio is 1.62.

California Environmental Quality Act (CEQA) Requirements. CEQA requires state and local government agencies to consider the environmental consequences of projects over which they retain discretionary authority, even after an EIR has been certified. Accordingly there are various types of documents that can be prepared depending upon the nature and extent of changes to a given project. When this application was submitted last December, it was staff's opinion that either a Supplemental EIR or an EIR Addendum would be required for the larger AIM building. A Supplemental EIR is required when:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

An Addendum to a previously certified EIR can be prepared if some changes or additions are necessary but none of the conditions calling for preparation of a Supplemental EIR have occurred.

Last March, PMC was hired to prepare either a Supplemental EIR or an EIR Addendum. Prior to performing the comparative environmental impact analysis, staff distributed a Notice of Preparation (NOP) to prepare a Supplemental EIR. The NOP contained language indicating that if in the course of conducting environmental review the City finds that no new significant impacts will result from the proposal, an EIR Addendum may be prepared in lieu of Supplemental EIR. Staff received minimal responses during the NOP comment period. Further, the responses did not raise any new significant environmental issues for the project. (The responses are included in Appendix A of the previously distributed EIR Addendum.)

The environmental analysis prepared by PMC focuses on the following potential areas of impact:

- Aesthetics and visual resources;
- Geology and soils;
- Vegetation and wildlife;
- Hydrology and water quality;
- Public utilities;
- Traffic and circulation; and,
- Air Quality

In assessing the impacts of the proposed changes to the project as originally approved, the City is not assessing whether impacts are significant compared with existing physical conditions (i.e., conditions without implementation of any part of the project). Rather, the City is assessing the significance of impacts compared with the level of significance of impacts disclosed in the certified EIR. The environmental analysis concludes that the impacts and mitigation measures in place for the previously certified EIR are adequate to address the changes resulting from the PUD amendment. Based on these conclusions, coupled with the fact that the NOP responses did not raise any new significant environmental issues for the project, the decision was made to prepare an Addendum. All of the mitigation measures adopted by the City Council in 2004 as part of the Final EIR certification remain in effect.

Site Review Application. A Site Review application was submitted for this project last March. The ARB reviewed the project at its April 20th and May 18th meetings and recommended that the City Council approve the application. (A copy of the ARB resolution is attached.) It should be noted that two conditions imposed by the ARB are recommended for elimination by staff when this application goes before the City Council:

- Condition No. 18, in part, requires either the undergrounding of overhead utilities along the entire property frontage along Foothill Avenue or payment of an in lieu fee. The Streets, Sidewalks and Public Places chapter of the Municipal Code authorizes the City Council to allow exceptions to this requirement after receiving a recommendation from the Planning Commission. The following findings are required:

    1. That there are special circumstances and conditions affecting the subject property;

2. That the exception is necessary for the preservation and enjoyment of a substantial property right of the developer;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

Planning staff has discussed this condition with Public Works staff and has come to the conclusion that since subject parcel is located in a rural area surrounded on nearly all four sides by unincorporated land, these findings can be made. The attached Planning Commission resolution includes these findings.

- Condition No. 45 requires the building to be pre-wired to provide a hard wire burglar alarm system. There is no current provision in the Municipal Code to support this condition for an institutional building. The condition stems from the Residential Development Control System "Safety and Security" scoring category and technically only applies to residential development that has committed to that type of improvement to attain points in the competition.

Building Height. Although the maximum height limit in the underlying zoning district is 25 feet, the Zoning Ordinance allows places of public assembly, such as schools and other public and semi-public buildings, to exceed height provided that side and rear yard setbacks are increased by one foot for each additional foot of height to a maximum of 50 feet, **unless otherwise approved by the ARB**. Using the methodology contained in the building height definition, the conference center has been calculated to be 62 feet high. With proposed side and rear setbacks of 270 and 300 feet, respectively, the building can exceed 50 feet in height. The visual simulations included in the EIR Addendum demonstrate that the project does not constitute ridgeline development and is not a focal point from any significant public viewing area. Further, the site is not within a designated scenic corridor. Based on these facts, the ARB supported the height of the building as proposed.

RECOMMENDATION

Use of the building as a mathematics conference center has already been found to be consistent with the General Plan with the City Council's approval of the PUD in 2004. An increase in the size of the building and intensity of the use will not result in any additional environmental impacts or mitigation measures beyond those that are already adopted in conjunction with the previously certified EIR. The ARB has reviewed the site plan, conceptual landscape plan and building elevations and has recommended that the City Council approve the Site Review Permit. Staff is therefore recommending that the Planning Commission recommend City Council Approval of the Zoning Amendment.

Attachments:

1. Resolution Recommending City Council Approval of the PUD Amendment
2. April 5, 2006 City Council Staff Report RE: MMRP Implementation (includes updated action plan dated June 22, 2006)
3. Ordinance No 1687
4. ARB Resolution No. 06-013

RESOLUTION NO. __-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF AN AMENDMENT TO A PRECISE DEVELOPMENT PLAN FOR AN EXISTING PLANNED UNIT DEVELOPMENT (PUD) ZONE TO ALLOW AN APPROXIMATELY 167,500 SQ. FT. ABOVE GROUND MATHEMATICS CONFERENCE CENTER WITH A 34,385 SQ. FT. UNDERGROUND GARAGE AND A NEW SURFACE PARKING LOT TO REPLACE AN EXISTING PARKING LOT AND AN EXCEPTION TO THE UNDERGROUND UTILITY REQUIREMENT ON AN APPROXIMATELY 54 ACRE SITE LOCATED AT 14830 FOOTHILL AVENUE (APN'S 825-30-007 AND 825-29-002)

WHEREAS, such request was considered by the Planning Commission at its regular meeting of June 27, 2006, at which time the Planning Commission recommended approval of application ZAA-03-03: Foothill-The Institute; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An Addendum to the Environmental Impact Report (EIR) certified by the City Council on July 7, 2004 has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act (CEQA). The Planning Commission finds that an EIR Addendum is the appropriate course of action under CEQA in that the environmental analysis therein concludes that the impacts and mitigation measures in place for the certified EIR are adequate to address the changes resulting from the PUD amendment. Responses received during the Notice of Preparation comment period did not raise any new significant environmental issues for the project. None of the conditions that would call for preparation of a Supplemental or Subsequent EIR have occurred.

SECTION 4. Future development of the improvements pursuant to the PUD as amended area shall comply with the applicable mitigation measures of the EIR certified by the City Council on July 7, 2004 and Mitigation Monitoring and Reporting Program adopted by the City Council on August 18, 2004.

SECTION 5. The Planning Commission hereby recommends approval of the amendment to the Precise Development Plan as contained in that certain series of documents on file in the Community Development Department, entitled "AIM Research Conference Center" prepared by Stotler Design Group. These documents, as amended by site and architectural review, show the exact location and sizes of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.

SECTION 6. In accordance with Section 12.02.190 of the City of Morgan Hill Municipal Code, the City Council may grant exceptions to the underground utility requirement upon recommendation from the Planning Commission with the following affirmative findings:

1. That there are special circumstances and conditions affecting the subject property;
2. That the exception is necessary for the preservation and enjoyment of a substantial property right of the developer;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

The Planning Commission hereby recommends that these findings be made based upon the fact that the subject parcel is located in a rural area of the City surrounded on nearly all four sides by unincorporated property.

PASSED AND ADOPTED THIS ___ DAY OF _____, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST: **APPROVED:**

FRANCES O. SMITH, Deputy City Clerk **ROBERT J. BENICH, Chair**

A F F I D A V I T

I, , applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Kevin Robins, Applicant

Date: _____

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: April 5, 2006

Agenda Item #
Prepared By:
Community Development Director
Submitted By:
City Manager

STATUS REPORT REGARDING IMPLEMENTATION OF THE INSTITUTE GOLF COURSE MITIGATION MONITORING & REPORTING PLAN (MMRP)

RECOMMENDED ACTION(S): For information only; no action required.

EXECUTIVE SUMMARY: On August 18, 2004 the Council took actions to approve a MMRP and rezoning of the Institute Golf Course property from Open Space to Planned Unit Development. The MMRP requires submittal of a Site Development and Grading Plan (SDGP) for the golf course. On April 20, 2005 the City Council approved agreements with The Institute/Corralitos Creek (ICC) and with Pacific Municipal Consultants (PMC), by which ICC agreed to pay the City for services to be provided by PMC related to review of the SDGP, as well as verifying compliance with other mitigation measures and conditions of approval. It is relevant to note that the actual SDGP occurs within the end stage of MMRP compliance activities, as it is required to integrate and reflect the results of other planning/compliance activities.

A written status report prepared by PMC, as well as a Summary Table and Action Plan prepared by the applicant's consultant, are attached. As noted by the PMC letter, "the applicant hired Strelow Consulting in November 2005 to manage the compliance efforts on the Math Institute property. Strelow is actively pursuing compliance and is doing an excellent job of maintaining communication with both the City and PMC on the status of compliance activities. Every aspect of the monitoring program is now moving towards compliance." The applicant has hired two engineering firms: Nolan Associates for the engineering geology and hydrogeology; and Fall Creek Engineering for civil, environmental, water resource and restoration engineering. Biosearch Associates has been retained as the new wildlife biologist firm; and Janeki & Associates has been retained as the restoration landscape architect.

The status of items of particular interest:

- Two groundwater monitoring wells installed and third to be drilled when weather allows; surface water quality report submitted; groundwater quality & supply reports to be complete summer 2006.
- Revised Nitrogen Control Plan/Chemical Application Management Plan submitted; City, SCVWD and RWQCB review expected to be complete by end of April 2006, allowing for approval of NPDES permit at that time. Storm Water Pollution Prevention Plan (SWPPP) approved.
- Geotechnical report and drainage analyses expected April 2006; Revegetation plan and SDGP by Summer 2006.

City staff has held meetings with the applicant, applicant's consultants, the Santa Clara Valley Water District and the Regional Water Quality Control Board, and all agencies are continuing to coordinate so that standards of each agency are attained by the various work products submitted by the applicant's consultants. The applicant and USFWS are working to identify appropriate offsite mitigation lands.

It should be noted that the text of the actual mitigation measures in the EIR and Resolution No. 5827 generally do not include specific "due dates". The MMRP did include a "timing" section in the compliance chart. While the applicant did get a late start on compliance activities, and subsequently decided to retain a different project manager and additional professionals who then needed additional time to go through learning curves; it is evident to staff that the timeframes set out in the MMRP were overly optimistic, given the complexity of tasks to be completed, and the fact that certain tasks cannot be completed by some consultants until results and coordination occurs with other consultants.

FISCAL/RESOURCE IMPACT: None.

PMC

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March 28, 2006

Kathy Molloy Previsich
City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

RE: Math Institute Golf Course's Mitigation Monitoring and Reporting Program (MMRP)

Dear Ms. Molloy Previsich:

Please accept this as a status report for the Math Institute Golf Course's Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval. This status report includes the review of materials submitted by the project proponent since our last report to the City on August 18, 2005 and information received during meetings with the applicant's representatives and interested agencies on March 16 and 21, 2006. Many materials have been submitted for review and approval and the project is moving forward adequately.

The applicant hired Stephanie Strelow of Strelow Consulting in November 2005 to manage the compliance efforts on the Math Institute property. Ms. Strelow is actively pursuing compliance and is doing an excellent job of maintaining communication with both the City and PMC on the status compliance activities. Every aspect of the monitoring program is now moving towards compliance. The brief discussions below are referenced by the MMRP impact and mitigation number addressed, along with the condition of approval number from Exhibit C of Ordinance No. 1687 as applicable. Additional information on the status of the mitigations can be obtained from the August 18, 2005 letter to the City.

It should be noted that all application and review fees that were required to be paid to the City in the MMRP have been paid; however the burrowing owl mitigation fee, which was proposed by the project proponent, shall be paid with the submittal of the Site Development and Grading Plan (SDGP).

Measure/ Condition	Description	Status
Mitigation 1 Conditions #8A-1 & 8A-2	Degradation of runoff and surface water quality. Impacts to habitat of downstream species.	In Progress. The project proponent has agreed to the City and RWQCB recommendations and received further direction at a meeting with the RWQCB on March 21, 2006 at City Hall. The submittal of information to comply with the agreed-upon method of compliance will take place with the submittal of the Site Development Grading Plan (SDGP).
Impact/Mitigation 2 Condition #5D	Degradation of riparian habitat.	In Progress. A preliminary sign location plan with rules of play that satisfies the first part of this mitigation was submitted. Compliance with the mitigation will need to be verified following installation.
Impact/Mitigation 3	*(Proposed by the Project proponent and thus not a Condition of Approval).* Loss of Burrowing Owl habitat.	In Progress. The Burrowing Owl Mitigation Fee will need to be paid at the time that the consolidated single Site Development and Grading Plan is approved.
Impact/Mitigation 4 Condition #1	Erosion and siltation from failure of existing earthwork:	In Progress. The Geotechnical Report that analyzes site-wide stability has not been submitted, however the site work is currently taking place. A preliminary map showing grading that took place onsite was shown to the City on March 16, 2006 with the final grading plan to be submitted with the SDGP.
Mitigation 5 Condition #5H	Future grading and construction may impact wetlands.	In Progress. The US Army Corp of Engineers will not visit the site to make a determination whether jurisdictional wetlands were impacted due to a lack of adequate staffing at the agency. PMC will evaluate this issue again at submittal of the SDGP. If work is to take place within the riparian corridor in the future, a US Army Corp of Engineers consultation is required.
Mitigation 6 Conditions #9A, B, C	Discharge of water from the lakes to the creek or other drainage would impact water quality.	In Progress. The project proponent has applied for the NPDES permit. The California Regional Water Quality Control Board, Central Coast Region (RWQCB) is currently reviewing the March 21, 2006 applicant submittal of the revised CHAMP.
Mitigation 7 Conditions #19A, B	Golf course construction resulted in removal of ordinance size trees.	In Progress. The project proponent has purchased numerous trees to replace those that were removed during site development. Following several site visits

Measure/ Condition	Description	Status
		and analysis of historical aerial photographs, PMC has determined that there are more trees onsite than were there when the project proponent purchased the property, and foliage coverage is approximately 98% of the coverage prior to construction of the golf course. PMC's arborist is currently developing an appropriate manner of monitoring 5-year health.
Mitigation 8 Condition #8, 10	Project requires acceptable source of potable water prior to issuance of building permit for AIM building.	In Progress. The project proponent indicates that an onsite water treatment facility will be constructed to provide a suitable supply of domestic water prior to the issuance of building permits for the proposed Mathematics Institute.
Mitigation 9 Conditions #12A, B, C	Irrigation of the site may substantially deplete groundwater resources.	In Progress. The project proponent has reviewed 10 years of trend information, and has selected the option of performing a detailed groundwater investigation to determine the permissible level of groundwater pumping for golf course irrigation. Two of the three monitoring wells were installed. The final monitoring well will be installed when weather allows. The project proponent will also use the existing wells onsite to do groundwater monitoring. Annual reports are required. When the RWQCD and the SCVWD approve the project proponent's proposal and verify their approval with the City via written documentation, this mitigation will be satisfied. A hydrogeologist was hired to address this mitigation and to submit a detailed plan that addresses SCVWD and RWQCB concerns as discussed at the March 16 and March 21, 2006 meetings.
Mitigation 10 Condition #6A	Golf course construction resulted in higher localized peak runoff in the vicinity of main entrance on Foothill Avenue.	In Progress. The project proponent has agreed to the City SCVWD and RWQCB recommendations and received further direction at the March 16 and March 21, 2006 meetings. The submittal of information to comply with the agreed-upon method of compliance will take place with the submittal of the Site Development Grading Plan (SDGP).
Condition #25	Redesign and Resizing of Drainage	In Progress. Plans and analysis supporting

Measure/ Condition	Description	Status
	Conduit at Maple and Resizing of Existing Culverts located at the private driveways downstream from the project site (Condition #26) to prevent localized flooding.	the proposed redesign and resizing of drainage conduit at Maple Avenue and of culverts at downstream private driveways shall be submitted to the Public Works Department.
Impact/Mitigation 11 Condition #2C	Also see Mitigation Measure 24 below. Construction and continued use of the golf course has eliminated Red Legged Frog (RLF), California Tiger Salamander (CTS), and Western Pond Turtle (WPT) habitat, and Vegetated Buffers are needed around ponds.	In Progress. The applicant has hired a landscape architect and biologist to complete the design of the shelves. Buffer and shelf locations as outlined in the August 18, 2005 PMC letter are required to be shown on the SDGP.
Impact/Mitigation 12 Conditions #2C, D	Construction and continued use of the golf course has eliminated Red Legged Frog (RLF), California Tiger Salamander (CTS), and Western Pond Turtle (WPT) habitat, and SDGP must show location and design of treatment measures for all Storm Drain Outlets.	In Progress. The project proponent has agreed to the City recommendations and received further direction at the March 16 and March 21, 2006 meetings. The submittal of information to comply with the agreed-upon method of compliance will take place with the submittal of the Site Development Grading Plan (SDGP).
Impact/Mitigation 13 Conditions #5A, B, E, F, G	Ongoing use and maintenance of the golf course will adversely impact the quality of the riparian habitat, especially the high quality riparian habitat along the upper reaches of Corralitos Creek.	In Progress. The project proponent has agreed to the City recommendations and received further direction at the March 16 and March 21, 2006 meetings. The submittal of information to comply with the agreed-upon method of compliance will take place with the submittal of the Site Development Grading Plan (SDGP).
Impact/Mitigation 14 Condition #18	Golf course development removed approximately one-half acre of riparian habitat.	In Progress. Approximately ½ acre of riparian habitat was lost during golf course construction, grading plans would need to be provided to restore habitat on a 3:1 ratio. There is limited opportunity for on-site restoration so the project proponent is researching possible offsite locations. Said plans need to be approved by the applicable agencies before proceeding with the physical work. All site modifications will need to be included on the SDGP.
Impact/Mitigation 15; Conditions #2A-1, 2A-3, 17	25.5 acres of serpentine habitat that would have supported a number of special status plant species was eliminated by golf course construction, requiring establishment of a conservation easement.	In Progress. The project proponent is researching potential offsite mitigation locations. The location will have to be satisfactory to both the City and to the USFWS. If the USFWS deems a location adequate for mitigation, the City will accept

Measure/ Condition	Description	Status
		that location as suitable for establishment of a conservation easement after verification by the PMC biologist.
Impact/Mitigation 16 Conditions #2A-2, 20D	25.6 acres of RLF habitat was eliminated by golf course construction, requiring establishment of a conservation easement.	In Progress. The project proponent is researching potential offsite mitigation locations. The location will have to be satisfactory to both the City and to the USFWS. Following the USFWS's determination that a location is adequate for mitigation and verification by the PMC biologist, the City will accept that location as suitable.
Impact/Mitigation 17 Conditions #2B, 2H, 20B, 21B	25.6 acres of RLF habitat, and CTS habitat, was eliminated by golf course construction and ongoing operations, requiring implementation of strategies to manage non-native predator species (bullfrog).	In Progress. The quarterly eyeshine surveys are taking place as required. As discussed previously, the "Habitat Management Plan" is complete but needs to be approved by the USFWS. Verification will most likely occur through the Section 10 consultation process when the project proponent will use the "Habitat Management Plan" as a basis for development of an HCP.
Impact/Mitigation 18 Condition #20E	25.6 acres of RLF habitat was eliminated by golf course construction, requiring a formal consultation with USFWS and issuance of appropriate permit.	In Progress. There is no formal consultation required from the USFWS as long as mitigations 15, 16 and 17 are satisfied.
	Approximately three acres of breeding ponds for California tiger salamander were eliminated by golf course construction.	In Progress. The applicant has hired a hydrogeologist, landscape architect and biologist to complete the design. Onsite areas of qualified habitat (meeting specifications of Condition #21A) need to be shown on the SDGP. The project proponent needs to submit a statement by a qualified herpetologist verifying the adequacy of the mitigation program and, if any off-site habitat is chosen, the adequacy of that habitat.
Impact/Mitigation 20 Conditions #2A-3, 2E, 2F, 2F-1, 8A-4, 8B-11, 8B-12	Past construction and ongoing operation of the golf course has caused and will continue to cause water quality impacts to water in Corralitos Creek and downstream, impacting habitat and other beneficial uses within the watershed.	In Progress. A topographic survey by a Civil Engineer was prepared for the site and will be included in the SDGP. Compliance with the requirements as outlined in the August 18, 2005 PMC status letter is also required.
Impact/Mitigation	Degradation of runoff and surface	Complete. The RWQCB has accepted the

Measure/ Condition	Description	Status
21 Conditions #20C, 21C	water quality, and impacts to habitat of downstream species, requiring preparation of a SWPPP.	Storm Water Pollution Prevention Plan (SWPPP) as adequate. The work plan described in the SWPPP is being implemented. The RWQCB staff will inspect the project site periodically and if there are any violations of the plan, the project proponent will be notified. This mitigation measure is satisfied assuming ongoing compliance with the SWPPP.
Impact/Mitigation 22 Condition #16A	Grass clipping *and/or grass plugs* allowed to decompose in piles have caused adverse odor impacts to neighboring residents.	Complete. This mitigation measure is satisfied assuming ongoing compliance with appropriate storage in the designated location. The project proponent will need to show the location of storage on the SDGP when completed.
Impact/Mitigation 23 Condition #2G	Nighttime use of mechanized equipment, including lawn mowers, is more likely to result in destruction of RLF.	Complete. This mitigation measure is satisfied assuming ongoing compliance with golf course procedures. Review and verification by the City will occur as plans are submitted and site operations continue.
Impact/Mitigation 24 Conditions #2C, 2D, 20A	Construction and continued use of the golf course has eliminated habitat for RLF, CTS, and WPT, requiring a 10-foot buffer around all onsite ponds/lakes.	In Progress. The applicant has hired a landscape architect and biologist to complete the design of the buffers as described in the August 18, 2005 PMC status letter.
Impact/Mitigation 25 Condition #2H	Construction and continued use of the golf course has eliminated habitat for RLF, CTS, and WPT, requiring a 5-year monitoring program.	In Progress. The program has been included in the HCP-Mitigation Operations Plan, and quarterly analyses are being submitted on a regular basis. Although several reports have been late they are being submitted in substantial compliance with the mitigation measure. This mitigation is ongoing and continued reporting is required.
Impact/Mitigation 26 Condition #8C-3	Construction and continued use of the golf course has eliminated habitat for RLF, CTS, and WPT, requiring monthly sampling and analysis of water quality in onsite ponds and Corralitos Creek.	In Progress. Water Quality sampling has occurred though not on a monthly basis and the analysis has been sporadically submitted to the City and SCVWD for review. Results have not revealed any significant water quality issues. During the March 16 meeting, SCVWD stated that project proponent is not in compliance with the condition and requested that regular sampling and reporting resume.
Impact/Mitigation 27 Conditions #8B, 8C, 27	Ongoing use and maintenance of the golf course may contaminate groundwater below the site, on-site drainage, and the downstream	In Progress. The revised Nitrogen Control Plan/Chemical Application Management Plan (NCP/CHAMP) is currently being reviewed by the City, the SCVWD, and the

Measure/ Condition	Description	Status
	reaches of Corralitos Creek, San Martin Creek and Llagas Creek with pesticides and herbicides and fertilizers, requiring preparation and compliance with a Nitrogen Control Plan (NCP) and a Chemical Application Management Plan (CHAMP).	RWQCB. Although surface water sampling locations and timing has been inconsistent in the past, the project proponent is now testing all sampling locations on a monthly basis. Annual reports on implementation and results of water quality monitoring need to be submitted to the City, SCVWD and RWQCB. Also see the comments under Mitigation 26 above.
Impact/Mitigation 28 Conditions #8B, 8C	On-going use and maintenance of the golf course will substantially increase existing nitrogen levels in the groundwater, which could adversely affect nearby drinking water wells, as well as the entire aquifer. Nitrogen loading impacts to downstream surface waters, including Corralitos Creek, San Martin Creek, and Llagas Creek, could also occur.	In Progress. The Nitrogen Control Plan/Chemical Application Management Plan (NCP/CHAMP) was submitted to the City, the RWQCB, and the SCVWD. Compliance with the requirements as outlined in the August 18, 2005 PMC status letter is also required.
Impact/Mitigation 29	Occupancy of the existing restaurant building could result in impacts to human safety due to concerns about the structural stability of the building.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 30 Condition #7A - F	Construction and continued use of the golf course has eliminated habitat for RLF, CTS, and WPT, and a SWPPP and NPDES permit, reflecting appropriate erosion control measures, are required for any further grading activities.	In Progress. Appropriate grading plans and erosion control measures shall be submitted for any future grading that may occur onsite. Grading that is proposed at this time shall be shown on the Site Development and Grading Plan. This mitigation is ongoing.
Impact/Mitigation 31 Condition #5C	Construction and continued use of the golf course degraded riparian habitat, and a lighting plan is required to prevent light and glare to the riparian corridor.	In Progress. The project proponent needs to indicate the intensities and locations of lights on the SDGP in compliance with the language within the mitigation, to ensure that it is designed, sited and shielded to minimize light and glare impacts to wildlife within the riparian corridor.
Impact/Mitigation 32.	Future construction on the project site could disturb nesting raptors, which could result in the loss of	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the

Measure/ Condition	Description	Status
	eggs, young or the reproductive effort, requiring avoidance of nesting season or preconstruction surveys.	existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 33.	The renovation and/or use of the existing restaurant building or other buildings on the site could disturb nesting swallows, which could result in the loss of eggs, young or the reproductive effort, requiring avoidance of nesting season or preconstruction surveys.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 34.	The renovation and/or use of the existing restaurant building or the removal of large trees on the site may disturb or destroy roosting Pallid and/or Townsend Big-Eared Bats, requiring predemolition/preconstruction surveys.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 35 Conditions #11, 28	The water supply may not be sufficient for fire protection requirements to serve proposed headquarters of the American Institute of Mathematics (AIM), and may have impacts on the viewshed.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 36 Condition #7A through F	Future grading and on-going operation of the golf course may increase soil erosion, requiring preparation of a SWPPP and a NPDES permit.	Complete. The RWQCB has accepted the Storm Water Pollution Prevention Plan (SWPPP) as adequate. The work plan described in the SWPPP is being implemented. The RWQCB staff will inspect the project site periodically and if there are any violations of the plan, the project proponent will be notified. This mitigation measure is satisfied assuming ongoing compliance with the SWPPP.
Impact/Mitigation 37 Conditions #13, 14	The proposed project may result in significant short-term noise impacts during any future construction.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of

Measure/ Condition	Description	Status
		additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 38.	The existing structures on the project site may contain ACMs or lead based paint. Demolition or remodeling may release air-borne asbestos and/or lead dust, causing a significant impact to workers or other persons in the area.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Impact/Mitigation 39 Conditions #15A - M	Construction of any remaining components of the proposed project could result in significant short term air quality impacts associated with dust generation.	The applicant has requested an amendment to the Mathematics Conference Center PUD which includes demolition of the existing restaurant building, construction of additional parking, installation of considerable landscaping, and associated grading activities. Supplemental environmental analysis will consider this impact.
Condition #22	Inconsistency with Land Use Regulations Operation of a golf course was determined by the City to be inconsistent with the Land Conservation Agreement List of Compatible Uses under the Williamson Act, requiring the City to file a Notice of Non-Renewal.	Complete. The City of Morgan Hill filed a Notice of Non-Renewal in August 2005.
Condition #23	Limitations on Time and Manner of Operation of Golf Course	The golf course may operate from April 16th to September 30th, from sunrise to sunset. The project proponent is in compliance with this condition of approval.
Condition #24	Review of Row of Trees Along Foothill Avenue	In progress. The project proponent must show the landscaping either on a detailed landscape plan or the SDGP. The City will determine whether the row of trees along Foothill Avenue shall be removed or diminished, or whether they are appropriate and can remain. This will occur at the time the City considers the final, single SDGP, which will occur when the SDGP has been deemed complete and ready for consideration and action.

Additional information on the status of the mitigations can be obtained from the August 18, 2005 letter to the City. If the City or the project proponent has any questions or clarifications regarding the status as shown above please feel free to contact me via telephone at 831-644-9174 ext. 210 or email at mmccormick@pacificmunicipal.com.

Respectfully,

PACIFIC MUNICIPAL CONSULTANTS

Michael McCormick
Associate Planner

INSTITUTE GOLF COURSE MMRP COMPLIANCE SUMMARY & ACTION PLAN

SUMMARY

✓ **Mitigation Measures COMPLETE**
- → Drainage details (#1) and Rules of Play & Signage (#2) – to be added to SDGP.
- → Potable Water Supply (#8).
- → Pond Shelf Design (#11) – Partially completed.
- → Pond Buffer Map (#24).
- → Habitat Management Plan (#17).
- → Aquatic species quarterly and annual monitoring and reporting (#17, 25: monitoring has been conducted for approx. 3 years).
- → Riparian Setback Maps (#13, 20.
- → SWPPP Submitted (#21).
- → Equipment Operations (#23).
- → Grass clippings storage (#22).
- → Operations Compliance (#37).
- → Building closure and future demolition controls (#29, 32, 33, 34, 35, 38, 39) – not applicable to golf course.

✓ **Mitigation Measures SUBMITTED; Agency Review Pending**
- → NPDES Application & Surface Water Quality Monitoring Report Submitted (#6, 26).
- → Chemical Application Management Plan-CHAMP Submitted (#27).
- → Nitrogen Control Plan (#28) included in CHAMP; Soils Testing Report Submitted (#28).
- → Tree Replacement – Planting List Submitted (#7).
- → USFWS Consultation/HCP (#18) – None required per USFWS (9-30-05) with offsite mitigation (#15, 16 below) and onsite habitat management (#17).
- → Grading/Stability Analysis (#4).
- → Groundwater Supply Investigation Scope of Work Submitted for Agency Review (#9).
- → Aquatic Species Monitoring - 2006, first quarterly report (#17, 25).

✓ **Mitigation Measures IN PROGRESS**
- → Drainage Analyses (#6, 10) and Pond Operation Plan for NPDES (#6), draft study completed and will be submitted to City in early July.
- → Revegetation Plan (#11-pond shelves & emergent vegetation, #19, 24-pond buffer & upland habitat, #13-riparian revegetation), conceptual plan completed and will be submitted to City as part of the SDGP.
- → Groundwater Quality Monitoring Report; draft study completed and will be submitted to City in early July.
- → Offsite Serpentine (#15), CRLF (#16), and e Riparian (#14) Habitat Acquisition/Preservation/Mitigation.

✓ **Mitigation Measures *to be Completed*, upon completion of above studies & plans.**

- → Drainage Plan Revisions (#1, 10, 12).
- → Site Development Plan (#2, 13, 20, 22, 24, 28, 31).
- → Grading and Erosion Control Plan (#4, 10, 12,13, 20, 30, 36-erosion)
- → Wetland Review (#5) upon completion of revegetation plan.
- → Final Actions (#3-burrowing owl fee, #33, 34-pre-construction surveys, if needed).

ACTION PLAN

MITIGATION	STATUS
1. WATER QUALITY COMPLIANCE (#6, 21, 26, 27, 28, 36) ✓ **Submit NPDES Application (#6, 26).** *COMPLETE.* ✓ **Submit SWPPP** (#21, 36). *COMPLETE.* ✓ **Submit CHAMP & Nitrogen Control Plan** (#27, 28). ✓ **Submit monitoring results & surface water quality report to RWQCB for review and signoff on NPDES.** *COMPLETE.* ✓ **NCP/CHAMP (#27,28),** including site-specific soil testing and plant requirements. *COMPLETE.* ✓ **Groundwater Monitoring for CHAMP** (#27, 28) – *IN PROGRESS.*	▪ *NPDES, SWPPP, CHAMP/NCP submitted in 2005. SWPPP approved by RWQCB in 2005.* ▪ *Surface Water Quality Monitoring Report submitted to agencies in January 2006; meeting held on 3-21-06 with RWQCB, City, SCVWD to review. RWQCB expects to issue "Low Threat" discharge permit in 1-2 months.* ▪ *Groundwater Quality Monitoring Investigation completed and will be reviewed internally and submitted to agencies by early July.*
2. GEOTECHNICAL – SLOPE STABILITY REPORT (#4) - Civil Engineer or Engineering Geologist. ✓ **Complete Stability and Erosion Analysis.** *COMPLETE.* ✓ **Phase 2 – sample borings.** *PENDING*	▪ *Nolan Associates to complete Phase 2 (limited soils borings).*
3. GROUNDWATER SUPPLY INVESTIGATION (#9) - Hydrologist **Review Scope of Work with SCVWD & City.** *COMPLETE* ✓ **Review Scope of Work with SCVWD & City.** *COMPLETE.* ✓ **Submit revised Scope of Work.** *COMPLETE.* ✓ **Complete investigation.** *PENDING APPROVAL OF SCOPE BY AGENCIES*	▪ *SCVWD did not approve a previously submitted scope of work in October 2005.* ▪ *Meeting with SCVWD, City and consultants held on 3-16-06 to review scope. Revised scope to be submitted early April.* ▪ *Scope of Work submitted to agencies in June 2006.*
4. AQUATIC SPECIES – CRLF / CTS (#11, 12, 17, 19, 25) – Wildlife Biologist ✓ **Submit quarterly and 2005 Annual Monitoring Report to City** *COMPLETE.* ✓ **Continue quarterly and annual monitoring for 3 years.** *IN PROGRESS.* ✓ **Shallow pond shelves/vegetation design** (#11)- *SUBMITTED TO CITY.* ✓ **Review CRLF and CTS requirements with biologist and incorporate into plans.** → CRLF Consultation regarding catch basin design (#12). → Pond Operations/Draining (#17). → Pond shelf design and emergent vegetation (#11). → Tiger Salamander Breeding Habitat & Buffer Requirements (#19).	▪ *2005 Monitoring Report submitted to USFWS and City.* ▪ *Biosearch Associates have completed monitoring and report for first quarter of 2006. Second quarter monitoring and report estimated in early July.*
5. RIPARIAN REVIEWS & REVEGETATION PLAN (#13, 14, 19, 20, 24) ✓ **Review riparian setbacks.** → Map Riparian setbacks (#13) - *SETBACK MAP SUBMITTED & APPROVED* → Determine Riparian Encroachment and on-/off-site mitigation (#13, 14) – *PENDING CITY REVIEW.* ✓ **Prepare Revegetation Plan.**	▪ *A draft conceptual plan has been completed and reviewed internally. Per discussions with City staff, it will be included in the SDGP submittal package.*

MITIGATION	STATUS
→ Prepare Revegetation Plan for riparian setback areas (#13) & pond buffer areas (#19, 24). *COMPLET* → Corralitos Creek setbacks for water quality protection – *14TH & 3RD HOLE GRAPHICS COMPLETE; 6TH HOLE GRAPHIC NEEDED* (#20) → Include pond/vegetation design (#11); revise shelves for Lake B and E (#11). *COMPLETE*	
6. DRAINAGE PLAN ✓ **Supplemental Analysis.** *COMPLETE* → Lake detention/retention capacity analysis (# 6,10) → Storm drain capacity analysis (#10) → Prepare Lake Operations Plan (#6, 23) ✓ **Drainage Plan Revisions.** *PENDING* → Install trench drain between lakes C and D (#10) → Oil and grease separators (#1) → Containment dikes around maintenance areas (#1) → Roofing over any areas where potential for spillage is high (#1) → Install filtration system in existing catch basins in maintenance area (#10-PMC) and other areas of biofilters (#10-PMC) → Use of vegetated buffers, filter strips, or swales to prevent discharge from catch basins and outlets into drainages and pipes leading to on-site ponds (#10 and #12)	▪ *Fall Creek Engineering has completed a draft supplemental drainage study. Upon completion of internal review, it will be submitted to agencies in early July.*
7. USFWS COORDINATION (#15, 16, 18, 25) ✓ **Contact USFWS to Review Mitigation requirements.** *COMPLTE* ✓ **Review offsite availability.** *PENDING* ✓ **Review other Section 10 Consultation requirements (& potential HCP) for CRLF** (#18). *CONSULTATION NOT REQUIRED WITH OFFSITE MITIGATION AND ONSITE HABITAT MANAGEMENT.* ✓ **Consultation regarding ongoing species monitoring** (#25). *COMPLETE.*	▪ *USFWS and property owners contacted; former identified site no longer available. Review of other potential sites is pending.* ▪ *USFWS letter of 9-30-05 indicates no consultation required with offsite mitigation and adequate onsite management. Draft Habitat Management Plan has been completed and submitted..* ▪ *Quarterly and 2005 Annual Monitoring Reports submitted to City and USFWS and reviewed with USFWS staff.*
8. ENGINEERING PLANS ✓ **Grading Plan:** → Pre- and post-grading contours *TO BE COMPLETED WITH SLOPE ANALYSIS.* → Additional grading, if required, as a result of the Geotechnical report (#4). → Any grading for drainage, i.e. away from Corralitos Creek and swales (#10, 12, 20). *IN PROGRESS* → Erosion Control Plan if further grading required (#30, 36). ✓ **Site Development Plan – Prepare final plan upon completion of other tasks:** → Signage locations to prevent access into riparian areas (#2). → Pond buffer and shelf locations *(on revegetation plan).*	▪ *Fall Creek Engineering under contract to develop grading plans adjacent to Corralitos Creek; final grading and site development plan to be prepared upon completion of other tasks.*

MITIGATION	STATUS
→ All riparian setbacks (#13 and 20). → Golf Course Modifications per Conditions (8B-11, 8B-12). → Location of storage and compost locations for grass clippings (#22). → Buffers around ponds (#24, 28). → Intensities and locations of lights on the SDGP (#31). → Landscaping (Condition 24).	
9. WETLAND DELINEATION (#5) ✓ **Review EIR / wetland areas / potential impact areas.** *COMPLETE.* ✓ **Complete delineation and review with ACOE if fill occurred to determine any permit requirements.**	▪ *EIR identifies 1.37 acres of seasonal, potential ACOE jurisdictional wetlands, but no impacts/fill identified in EIR.* ▪ *Review potential fill areas upon completion of revegetation, grading, and site development plans.* ▪ *Complete wetland delineation and ACOE permit application as may be needed based on final revegetation plans.*
10. ONGOING MONITORING/REPORTING REQUIREMENTS ✓ **Habitat Management:** → CRLF and tiger salamander – quarterly monitoring & reporting for 5-year period (#17). *IN PROGRESS* ✓ **Water Quality** → Monthly sampling (#26). *IN PROGRESS* → 5-year riparian restoration monitoring (#13)	
11. ACTIONS PRIOR TO OPENING ✓ Finalize preliminary sign location map that has been submitted (#2) ✓ Prepare and distribute rules of play that prohibit entering the riparian corridor (#2) ✓ Pre-construction surveys with future development (#33, 34) ✓ Outline Payment of Fees → Burrowing Owl Fee (#3)	

ORDINANCE NO. 1687, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT ON A 192±-ACRE SITE CHANGING THE ZONING DESIGNATION FROM OPEN SPACE (OS) TO PLANNED UNIT DEVELOPMENT (PUD) LOCATED AT 14830 FOOTHILL AVENUE BETWEEN MAPLE AVENUE AND ROBIN AVENUE. (APNS 825-29-002, 043, 044, 045 AND 825-30-007) (ZA-03-03: Foothill – The Institute)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental impact report has been prepared for this application and has been found complete, correct and in substantial compliance with the California Environmental Quality Act.

SECTION 4. The City Council hereby approves a precise development plan as contained in that certain series of documents dated March 3, 2003 on file in the Community Development Department, entitled "American Institute of Mathematics" prepared by Stotler Design Group. These documents, as amended by site and architectural review, show the exact location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.

SECTION 5. The City Council hereby amends the City Zoning Map as shown in attached Exhibit "A."

SECTION 6. Approval of The Institute PUD shall allow the specific uses identified in the applicant's "Use Data Table", attached hereto as Exhibit "B", and by this reference incorporated herein. Those uses shall include the following:

1. AIM Research Center (includes research facility, library, conference rooms, guest suites, lecture halls, food service, offices, pro shop, locker rooms) (59,000 square feet)
2. Golf course (128 acres)
3. Residence
4. Offices
5. Lecture hall

6. Caretaker's quarters
7. Equipment storage
8. Maintenance sheds
9. Food service
10. Guard building
11. Pro shop
12. Restrooms
13. Open Space

SECTION 7. Development of this PUD shall be in accordance with the development standards for PUDs, Chapter 18.30 of the Zoning Code, identified herein by reference in the resolution.

SECTION 8. Approval of this PUD does not include approval of "charity golf tournaments" as identified in the applicant's use table, as such use has not been evaluated for its potential environmental impacts. Such use will require amendment to the approved PUD upon further environmental review.

SECTION 9. Conditions of Approval. The Zoning Amendment hereby approved shall be subject to the conditions contained in the attached Exhibit "C."

SECTION 10. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 11. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of July 2004, and was finally adopted at a regular meeting of said Council on the 18th Day of August 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	**COUNCIL MEMBERS:**	**Larry Carr, Hedy Chang, Dennis Kennedy, Greg Sellers, Steve Tate**
NOES:	**COUNCIL MEMBERS:**	**None**
ABSTAIN:	**COUNCIL MEMBERS:**	**None**
ABSENT:	**COUNCIL MEMBERS:**	**None**

ATTEST:

Irma Torrez, City Clerk

APPROVED:

Dennis Kennedy, Mayor

CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1687, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th Day of August 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: 9/9/04

IRMA TORREZ, City Clerk

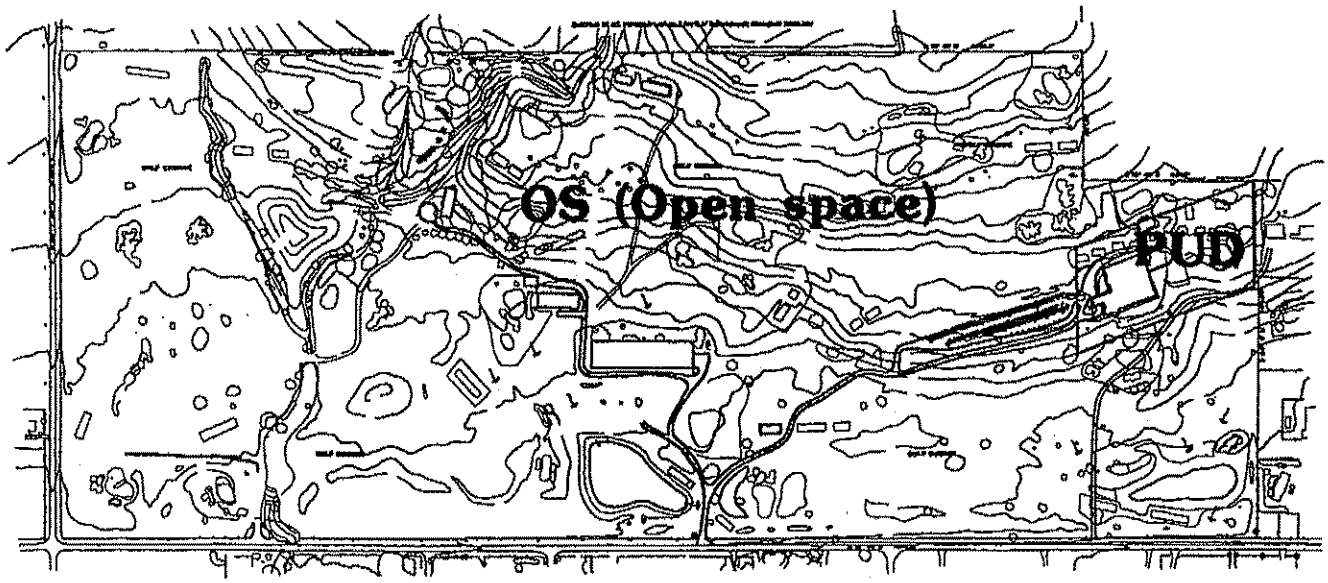
FOOTHILL-
THE INSTITUTE

City of Morgan Hill
Ordinance No. 1687, N.S.
Exhibit A – Map

Exhibit A
Map Showing Rezoning

stotler design group
6888 SANTA TERESA BLVD. #6
SAN JOSE, CA 95119
PHONE: (408) 227-4404
FAX : (408) 227-6455
E-MAIL: sdg@stotlerdesigngroup.com

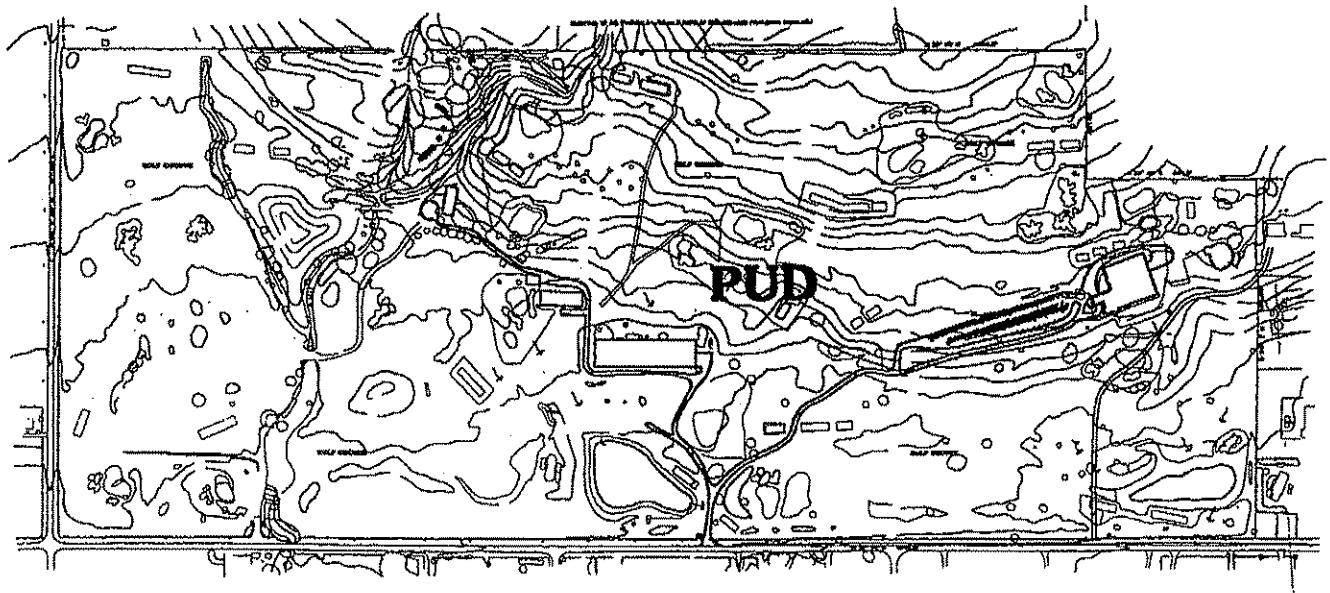
DATE: FEBRUARY 28, 2003



Existing Zoning Boundary Lines

GRAPHIC SCALE

NORTH



Proposed Zoning Boundary Lines

GRAPHIC SCALE

NORTH

EXHIBIT "B"

Use Data Table

Building Number	Existing Square Footage	Description	Proposed Use
1	4992 s.f.	Farm House	Residence for Mathematicians
2	1850 s.f.	Milk Barn	Restroom
3	8774 s.f.	Hay Barn	Caretaker's Quarters & Equipment Storage
4	98 s.f.	Silo	Design Aesthetic
5	200 s.f.	Restroom	Restroom
6	40316 s.f.	Hanger	Equipment Storage, Maintenance, and Office
7	58946 s.f.	"Flying Lady" / Food Services	AIM Research Conference Center uses include: Research, Library, Conferences, Guest suites, Lectures for the General Public, Education, Food Service, and Offices. Other uses: Pro Shop and Locker Room.
8	7580 s.f.	Church / Lecture Hall	Lecture Hall, Staff Offices, Staff Break Room, Food Services.
9	1156 s.f.	Church Accessory Bldg.	Offices
10	175 s.f.	Guard Shack	Guard Building
None	Remainder of Property	Land / Open Space	Golf, Charity Golf Tournaments. Other uses: Open Space & Composting.

EXHIBIT "C":

Conditions of Approval, Including Mitigation Measures Not Presently Incorporated Into The Proposed Project.

___X_ 1. A geotechnical report prepared by a certified engineering geologist or civil engineer shall be submitted for review and approval by the City of Morgan Hill Director of Public Works to verify the stability of the existing earthwork on the project site, except for the berm along Foothill Avenue and the berm along the southern edge Pond G. If the existing earthwork is not found to be structurally sound and capable of resisting erosion and/or collapse, the grades shall be reworked in conformance with an engineered plan approved by the Director of Public Works.

___X_ 2. Red-legged Frog Mitigation Measure Package I

A. Implement USFWS Mitigation Recommendations - Implement all mitigation measures included in the USFWS letter of July 15, 2003 (Appendix C of this EIR) to reduce impacts to the California red-legged frog, as summarized below:

1. Purchase 51 acres of currently unprotected serpentine habitat and fund its management as habitat in perpetuity.

2. Purchase 51.2 acres of currently unprotected California red-legged frog habitat and fund its management as habitat in perpetuity.

3. A riparian buffer with an average width of 70 feet and a minimum width of 30 feet will be planted and maintained on each side of Corralitos Creek and its tributaries, measured from the centerline of the creek.

4. As stated in the July 15, 2003 letter from the USFWS, the 35 acres of serpentine habitat located in Kirby Canyon is of exceptional quality. If after evaluation the City of Morgan Hill agrees with the USFWS that this 35 acres of replacement habitat is equivalent to the mitigation requirement of 51 acres of serpentine habitat due to exceptional quality, and also provides 35 acres of red-legged frog habitat, then only16.2 additional acres of currently unprotected red-legged frog habitat will need to be purchased and funded for management as habitat in perpetuity.

B. Manage Non-Native Predator Species - Bullfrogs and large mouth bass are non-native predators that reduce the long-term viability of a California red-legged frog population. Although only one bullfrog was detected on the project site, a non-native predator management plan that operates for the life of the golf course operation shall be implemented. The main components of this plan are to: 1) monitor all ponds for bullfrogs and other non-native predators on an annual basis, and 2) dry out any ponds that contain bullfrogs for two to three weeks in late September/early October on an annual basis. Only ponds that are found to contain one or more bullfrogs need to be drained. The timing of the draw down will be phased to ensure that California red-legged frogs will continue to have available suitable wet areas. Pond draining disrupts the two-year development cycle of the bullfrog and should substantially reduce or eliminate successful reproduction by bullfrogs.

C. Vegetated Buffers Around Ponds - All ponds on site shall have a buffer around the pond perimeter of at least 10 feet in width, which may consist of un-maintained dense grasses, planted ground cover

or mulch, so long as the criteria set forth herein are satisfied. This buffer will not be mowed or maintained with mechanized equipment, nor will any chemicals or fertilizers be applied to the surface, and it will be designed to absorb and retard surface flow and to act as a filter for the surface flow. The buffers shall be subject to the approval of the City to ensure that they satisfy these criteria. Fertilizer may be applied if necessary through a below ground drip irrigation system. This buffer is significantly narrower than the buffer cited under Mitigation Package II because Mitigation Package I also provides for substantial additional off-site habitat benefits as described in USFWS letter dated July 15, 2003 that compensate for the smaller on-site buffer areas.

D. Maintain Water Quality of Breeding Ponds/Establish Vegetated Shelves Around Ponds - Water quality shall be monitored monthly for the duration of the golf course operation by qualified personnel to ensure that golf course run-off does not impact breeding habitat for the California red-legged frog. Shallow water shelves shall be constructed and vegetated with native emergent vegetation around the perimeter of ponds A, B, C, D, E, F and G. Native emergent vegetation shall be established on at least 50 percent of the total linear feet of pond edge (Exhibit ____) and shall be approximately 5 to 10 feet in width. These vegetated shelves will provide refugia and breeding habitat for the California red-legged frogs. This vegetation will also provide some biological filtering of run-off water. Catch basins and other storm drain outlets shall not empty directly into any drainages leading to these ponds, but rather, flow through vegetated buffers, filter strips, swales, or other treatment measures which provide equivalent filtration and are subject to the approval of the City, prior to entering ponds or empty downstream of any waterways associated with potential breeding habitats. If any further grading occurs, silt fences, fiber rolls, or other structures shall be installed to ensure that run-off from the operations does not flow directly into these breeding areas.

E. Water Quality Setback from Corralitos Creek - Both the USFWS and H.T. Harvey and Associates identified buffers to avoid wildlife disturbance. As stated in Section II., D., Hydrology and Water Quality of this EIR, a minimum setback is necessary to avoid significant impacts to the creek from pollutants in surface runoff. This "setback area" shall be either (1) 50 feet from the centerline of Corralitos Creek and tributaries, or (2) 30 feet as measured along the ground surface to the highest anticipated water line of the Creek and tributaries as jointly determined by the RWQCB and the City.

F. To reduce the water quality setback area required in Section 2.E without resulting in significant water quality impacts, the areas adjacent to the on-site creek channels shall drain away from the creek. The surface water shall simply drain back over the golf course as sheet flow, or it shall drain to a drainage system that drains to the creek or the internal ponds consistent with Section 2.D above. This reduction shall be implemented through either: (a) the preparation of a detailed topographic survey completed by a registered civil engineer or licensed land surveyor that confirms that the existing ground surfaces within the setback area required by Section 2.E for Corralitos Creek and all tributaries within the boundaries of the project site drain away from the creek banks, or (b) the preparation of a grading plan that demonstrates that all of the on-site ground surfaces within the setback area required by Section 2.E for all of the creek channels on the project site will be re-graded to achieve the same performance standard, or some combination of these two scenarios (a and b). The drainage pattern shall be achieved through surface grades, or a combination of surface grades and catch basin/storm drain systems. Under no circumstance shall the setback from the creek channels be reduced below 30 feet from the centerline of the creek, except for the fairway of the 6th hole, as described below.

1. The setback from Corralitos Creek within the fairway of the 6th hole will be reduced to 20 feet on the south side of the creek and will adhere to the measures described above in Section 2.F for reduced setback areas. The setback from the north side of the creek on the 6th hole will be at least 70 feet to compensate for the reduced setback along the south side of the creek.

G. All mechanized equipment used to maintain the grounds shall only be used during the daylight hours.

H. Monitoring of the on-site population of red-legged frogs shall be done for at least five years after implementation of the program, and the results of the monitoring reported to the City of Morgan Hill and the USFWS.

___X_ 3. California Tiger Salamander Mitigation Measure Package I

A. Mitigation Measure Package I as described above for the California red-legged frog shall also provide adequate mitigation for the California tiger salamander.

___X_ 4. Western Pond Turtle Mitigation Measure Package I

A. Mitigation Package I as described previously for the California red-legged frog shall also provide adequate mitigation for western pond turtles.

___X_ 5. Riparian Habitat

A. The riparian habitat and drainages offer different wildlife values, therefore, a 25-foot setback from the lower-quality riparian habitat, and a 100-foot setback from the higher quality riparian habitat is necessary to protect the remaining riparian corridor that is well vegetated and of higher quality, except where mitigation for reduction in the riparian setback is provided as required in paragraph G below;

B. The setback area shall be established as a riparian buffer planting zone with native trees and shrubs, such as native oaks and willows. The landscape plans shall be reviewed and approved by a qualified botanist or restoration biologist under contract with the City with services paid for by the project proponent;

C. Lighting within the setback areas should be avoided. Lighting associated with the proposed project shall be designed, sited and shielded to minimize light and glare impacts to wildlife within the riparian corridor; and

D. Human access shall be restricted within the riparian corridor. Signs explaining the sensitivity of riparian corridors will be posted along the riparian corridor particularly near possible or likely access points. The property owner will promulgate rules of play that prohibit entering the riparian corridor.

E. It should be noted that the riparian corridor setbacks described above are different than the creek setbacks described previously to protect special-status species (red-legged frog, tiger salamander, and western pond turtle). The riparian corridor setbacks (100 feet for high quality riparian habitat and 25 feet for low quality riparian habitat) are measured from the edge of the riparian corridor. The setbacks for impacts to special-status species are measured from the centerline of the creek channels, and the water quality setbacks are measured from the highest anticipated water line of the creek channels.

F. The riparian setbacks identified above (100 feet from high quality habitat, 25 feet from poor quality habitat) are methods for reducing or avoiding habitat degradation. If encroachment within the identified setbacks is allowed by the City, mitigation (described below) shall be required to offset the impacts to habitat quality that would result from the encroachment.

G. Mitigation for Reduction of Riparian Habitat Setbacks: An area of riparian habitat that is equivalent in size to the area of the encroachment(s) proposed into the setbacks, shall be provided at a 1:1 ratio elsewhere along the same drainage. Uses or activities within the encroachment areas within the 100-foot riparian setbacks should be limited to roughs and fairways to within 25 feet of the edge of the riparian habitat; un-maintained rough may be as close as 15 feet to the edge of the riparian habitat. The tees and greens that are retained in the encroachment area will be mitigated by the re-establishment and protection of riparian habitat at a 2:1 ratio (replacement: impacted) that is within three miles of the encroachment and within the Llagas Creek watershed. Any such off-site riparian re-establishment project(s) could require subsequent CEQA review. A revegetation and maintenance plan prepared by a qualified revegetation ecologist that illustrates: (a) all planting within 100 feet of the edge of the riparian habitat, and (b) all replacement riparian habitat proposed as mitigation for riparian habitat lost and for encroachments into the riparian habitat setback, shall be submitted to and approved by the City of Morgan Hill as part of the Site, Architectural and Landscape Plan Review process.

H. Prior to approval of a grading permit for the subject property, the project proponent shall be required by the City of Morgan Hill to obtain from the U.S. Army Corps of Engineers, and provide to the City of Morgan Hill Director of Planning, a determination that no jurisdictional wetlands will be impacted by the proposed grading or construction.

___X_ 6. Off-site Flooding and Drainage

A. In order to mitigate the localized flooding problems at Foothill Avenue in the vicinity of the entrance road caused by the project, the project proponent shall re-design the drainage system for the golf course to reduce the peak runoff flows to levels that are equal to or less than pre-development conditions and prevent uncontrolled runoff onto Foothill Avenue within the frontage area of the project site. This shall require the following:

1. Redesign the drainage system to provide storm water detention capability for the runoff from the Maintenance drainage area in order to assure that the peak runoff flow from this area of the site does not cause concentrated uncontrolled runoff onto Foothill Avenue; this shall include a revised hydrologic analysis verifying adequate capacity for the relevant sections of the storm drain system, and updated detention analysis for Lakes A through E;

2. The redesign of the on-site drainage system for the project site, including the revised drainage analysis and detention basin analysis, shall be subject to review and approval by the Santa Clara Valley Water District and the City of Morgan Hill.

___X_ 7. Soil Erosion

A. Erosion and sedimentation impacts from the proposed project would generally result from construction on the site. It is also likely that on-going maintenance of the golf course will occasionally include

excavating, drainage and grading work. Construction-related erosion and sedimentation shall be mitigated by the implementation of the following measures:

B. The project proponent shall apply for and obtain the applicable state permits under the National Pollutant Discharge Elimination System (NPDES), as required by the State Water Resources Control Board for any grading of more than one acre; this includes the preparation of a Storm Water Pollution Prevention Plan prior to any additional work necessary to reduce flooding and drainage impacts.

C. The project proponent shall prepare an Erosion Control Plan for review and approval by the City of Morgan Hill and the Central Coast RWQCB prior to any construction or grading on the site. Erosion control measures shall be established in conformance with the City of Morgan Hill Grading Ordinance, RWQCB regulations, and local guidelines for non-point source runoff Best Management Practices for construction. The Erosion Control Plan shall include the following measures:

1. use of fiber rolls and temporary sedimentation basins to retain sediment on the project site;

2. protecting all finished graded slopes from erosion through re-vegetation, drainage diversion, and other appropriate methods;

3. protecting any downstream storm drainage inlets from sedimentation; and

4. No construction activity that includes grading, soil movement or excavation, or which may result in any soil erosion shall occur during the winter rainy season (October 15th to April 15th), without written approval from the City Engineer for the City of Morgan Hill.

D. Inspection shall be conducted by City of Morgan Hill during the construction period to ensure that the erosion control techniques are performing as designed. Erosion control features shall be checked after major winter storm events.

E. Following completion of construction, the roadside drainage ditches and stream channels that border and run through the project site shall be inspected for accumulated sediment. The project proponent shall be responsible for the clearing of accumulated debris and sediment within these channels prior to each winter rain.

F. Following construction, a program shall be established for insuring maintenance of culverts, drain inlets, energy dissipaters, etc., and for erosion control during maintenance grading activities in conformance with the Santa Clara County Grading Ordinance, RWQCB regulations, and Non-Point Source Program Best Management Practices.

___X_ 8. Water Quality

A. Non-Point Source Runoff Pollutants

1. Provide containment dikes around maintenance areas, and provide roofing over any area where the potential for oil, grease and fuel spillage is high;

2. Provide oil/grease separators for all catch basins within the parking area drainage system;

3. Monitor the grounds to control litter and other debris that could be washed into the on-site ponds or drainages (i.e., weekly street sweeping, oil spill clean-up, etc.);

4. Modify the golf course design along the riparian corridor of Corralitos Creek to provide the setback area required in Section 2.E that contains only native grasses and non-maintained rough for the capture and treatment of surface runoff pollutants, and a similar buffer of 10 feet around all on-site ponds/streams. The CHAMP shall include monthly monitoring for water quality and shall contain provisions for reporting of accidental chemical releases.

An alternative to providing the minimum setback area described in Section 2.E above is to ensure that the areas within such setback area drain away from the creek channels. This will allow the water quality setback to be less than the setback area required in Section 2.E without resulting in significant water quality impacts. The surface water shall simply drain back over the golf course as sheet flow, or it shall drain to a catch basin system that drains to the internal ponds. This mitigation shall be implemented through either: (a) the preparation of a detailed topographic survey completed by a registered civil engineer or licensed land surveyor that confirms that the existing ground surfaces within the Section 2.E setback area of all creek channels within the boundaries of the project site drain away from the creek banks, or (b) the preparation of a grading plan that demonstrates that all of the on-site ground surfaces within the Section 2.E setback area of all of the creek channels on the project site will be re-graded to achieve the same performance standard, or some combination of these two scenarios (a and b). The drainage pattern shall be achieved through surface grades, or a combination of surface grades and catch basin/storm drain systems. Under no circumstances shall the setback from the creek channels be reduced below 30 feet from the centerline of the creek, except for the fairway of the 6th hole, as described below.

- The setback from Corralitos Creek within the fairway of the 6th hole will be reduced to 20 feet on the south side of the creek and will adhere to the measures described above for reduced setback areas. The setback from the north side of the creek on the 6th hole will be at least 70 feet to compensate for the reduced setback along the south side of the creek.

5. Adopt and implement as part of on-going site operations, all applicable mitigation measures identified for soil erosion (refer to page 70 of the Revised Draft EIR).

B. Nitrogen Loading

1. The project proponent shall prepare a nitrogen control plan (NCP) which is based upon a determination of appropriate nitrogen application rates, based upon site specific soil testing and plant requirements. The NCP shall be a component of the Chemical Application Management Plan (CHAMP) described under the heading "Pesticides and Herbicides" below.

2. The NCP shall include annual accounting of all sources of nitrogen application rates to the golf course, including fertilizer applications, grass clippings left in place, and nitrogen content of irrigation water.

3. The Nitrogen Control Plan (NCP) shall include sufficient technical analysis, including monitoring data from the initial operation of the golf course, to demonstrate that the fertilizer and irrigation water applications to the golf course will not exacerbate the existing groundwater-nitrate problems in the project vicinity. Specifically, the nitrate loading from all sources shall be demonstrated to not exceed the estimated nitrate loading that would occur from pre-project conditions (i.e., the nitrogen loading on the whole site when it contained a 40-acre golf course, which is estimated in the EIR to be 19 to 41.2 mg/L).

4. The project proponent shall submit the Nitrogen Control Plan, including comparison to pre-project nitrate loading estimates, to the Santa Clara Valley Water District (SCVWD) and the Central Coast RWQCB for review and approval, and shall obtain and comply with recommendations provided by these agencies. Additionally, any proposed changes to the fertilizer program, not already addressed in the NCP, shall be submitted to these agencies for review and approval prior to implementation.

5. Nitrogen fertilizer application rates shall be adjusted to account for the nitrate levels in the groundwater-irrigation supply based upon and verified through routine monitoring of irrigation waters. The irrigation water monitoring program shall be in accordance with requirements established by the SCVWD and the RWQCB; at a minimum, the monitoring shall include sampling for nitrate and total kjeldahl nitrogen no less than monthly.

6. Application rates of fertilizers shall be determined based on irrigation rates and site-specific soil conditions and turf requirements. A soil and/or tissue sampling and monitoring program shall be implemented to determine appropriate application rates, in accordance with recommendations provided by the SCVWD.

7. Fertilizer application shall be consistent with the CHAMP. The nitrogen fertilizer shall be slow release or less soluble form, whenever possible.

8. Irrigation of the golf course shall be limited to the calculated crop evapotranspiration rate, plus mineral dilution requirement. Local weather conditions will be taken into consideration. Excessive irrigation shall be avoided. This will reduce potential leaching of nitrogen to the subsoil as well as reduce potential surface runoff from irrigation application.

9. The timing of fertilizer application shall coincide with the period of greatest plant uptake and avoid periods of potential rainfall-runoff events.

10. The overall amount of maintained turf shall be reduced, as needed, in order to minimize the total fertilizer requirements and achieve the goal identified in item #3 above.

11. Modify the golf course design as specified previously, including the provision of the setback area required in Section 2.E of native grasses and non-maintained rough along all branches of Corralitos Creek, within which fertilizers will not be applied.

12. The setback area referenced in Section 8.B.11 above may only be reduced in a manner that is consistent with the restrictions reflected above in the non-point source pollutants setback.

13. Modify the design of all sub-drains from tees and greens that discharge to Corralitos Creek to provide a minimum 25-foot vegetated buffer between the outfall point and the creek channel, or a filtration system with treatment equivalent to the 25 foot vegetated buffer, as approved by the City.

14. Modify the golf course on Hole #3 to eliminate the turf covering the tributary drainage channel on the north side of Corralitos Creek near Lake G, and reestablish natural channel conditions, maintaining the setback area required in Section 2.E above between the turf grass and the creek channel.

15. Modify the drainage system and/or golf course design in the northwestern portion of the site to eliminate the flooding of the fairway catch basins.

C. Pesticide and Herbicides

1. The golf course operator shall prepare a Chemical Application Management Plan (CHAMP). This plan shall detail the procedures to construct, operate and maintain the golf course and shall provide public disclosure regarding pesticides, fertilizers and other chemicals to be used on the golf course, as well as methods of application and handling. The CHAMP shall be subject to review and approval by the City of Morgan Hill and the Central Coast RWQCB. In addition to the measures incorporated into the proposed golf course layout and design, the following provisions shall be considered for inclusion in the CHAMP and reasons identified for a failure to include any measures:

a. Drought, pest, and disease resistant grass species shall be selected;

b. Pesticides shall be handled, applied, and disposed of by a licensed (State-certified) spray technician;

c. Only approved and legal chemicals shall be used. All county, state, and federal guidelines shall be strictly adhered to regarding storage, handling, and application of pesticides;

d. Advanced technology/monitoring equipment shall be used to insure minimal application of pesticides, herbicides, and fertilizers. This equipment shall be maintained and properly calibrated;

e. A controlled and designated area/facility shall be used for the proper mixing and loading of pesticides into application equipment. The facility shall consist of an impermeable pad with controlled and contained drainage, and shall be at least 50 feet from open ditches, ponds or other water bodies. Rinse water shall be properly stored and hauled for disposal at an approved facility.

f. Selection of pesticides shall be based on the ability to achieve treatment goals and criteria to minimize off-site movement. Selection of less toxic, less mobile, and less persistent pesticides shall be a priority management criterion.

g. Pesticide applications shall be carefully timed and combined with other pest management practices; pests shall be accurately identified and pesticide applications made only when necessary, using the least amount required.

h. Pesticides shall not be applied during the rainy season, when soil moisture is high. Applications shall be restricted prior to any anticipated late or early season storm events to preclude potential impacts from runoff.

i. Irrigation applications shall be consistent with turf grass evapotranspiration requirements. Over-watering shall be avoided.

j. As described previously, modify golf course design to provide enhanced vegetative buffer areas for retention of pesticide residue, including the following:

* Modify the golf course design along the riparian corridor of Corralitos Creek to provide the setback area required by Section 2.E above or a modified setback similar to that described under Non-Point Source Runoff Pollutants above, that contain only native grasses and non-maintained

rough for the capture and treatment of surface runoff pollutants, and a similar buffer of 10 feet around all on-site ponds/streams. The CHAMP shall include monthly monitoring for water quality and shall contain provisions for reporting of accidental chemical releases.

* Modify the design of all sub-drains from tees and greens that discharge to Corralitos Creek, to provide a minimum 25-foot vegetated buffer (non-turf grass) between the outfall point and the creek channel or a filtration system with treatment equivalent to the 25-foot vegetated buffer, as approved by the City.

* Modify the golf course on Hole #3 to eliminate the turf covering the tributary drainage channel on the north side of Corralitos Creek near Lake G, and reestablish natural channel conditions, maintaining the setback area required in Section 2.E above between the turf grass and the creek channel.

k. As described previously in Section 8.A.4 above, there is an alternative to providingthe setback area required in Section 2.E above. To reduce the water quality setback to below such setbacks without resulting in significant water quality impacts, the areas adjacent to the drainage channel shall drain away from the creek. The surface water shall simply drain back over the golf course as sheet flow, or it shall drain to a catch basin system that drains to the internal ponds. This mitigation shall be implemented through either: (a) the preparation of a detailed topographic survey completed by a registered civil engineer or licensed land surveyor that confirms that the existing ground surfaces within the Section 2.E setback area of all creek channels within the boundaries of the project site drain away from the creek banks, or (b) the preparation of a grading plan that demonstrates that all of the on-site ground surfaces within the Section 2.E setback area of all of the creek channels on the project site will be re-graded to achieve the same performance standard, or some combination of these two scenarios (a and b). The drainage pattern shall be achieved through surface grades, or a combination of surface grades and catch basin/storm drain systems. Under no circumstances shall the setback from the creek channels be reduced below 30 feet from the centerline of the creek except for the fairway on the 6th hole, as described below.

- The setback from Corralitos Creek within the fairway of the 6th hole will be reduced to 20 feet on the south side of the creek and will adhere to the measures described above for reduced setback areas. The setback from the north side of the creek on the 6th hole will be at least 70 feet to compensate for the reduced setback along the south side of the creek.

2. Modify the drainage system and/or golf course design in the northwestern portion of the site to eliminate the flooding of the fairway catch basins.

3. Additionally, the CHAMP shall include a plan and commitment by the golf course owners/operators to provide on-going monitoring of water quality within the stream channels (Corralitos Creek) that flows through the project and within the on-site lakes that have outfalls to the local drainage channel along Foothill Avenue. A monitoring and reporting program shall be established by the RWQCB to enforce this requirement. At a minimum, the water quality sampling shall include monthly sampling of the golf course lakes and stream/drainage channels (above and below the project site) during the rainy season. Sampling shall include nutrients (nitrate and phosphorous) as well as all pesticides used for golf course maintenance. These data shall be reported to the City of Morgan Hill, the Santa Clara Valley Water District, and the Central Coast RWQCB on an annual basis.

4. The CHAMP shall be subject to review and approval or concurrence by the City of Morgan Hill, the SCVWD, and the Central Coast RWQCB (If the RWQCB accepts regulatory authority for the CHAMP, reports to the City and SCVWD may be informational only).

___X_ 9. Lake Water Quality Management and Discharges

Implementation of the following measures will reduce impacts associated with lake water quality management and discharges to a less than significant level:

A. The project proponent shall apply for and obtain an NPDES "General Permit for Discharges with Low Threat to Water Quality" from the Central Coast RWQCB for all of the on-site lakes, except where they are designed and operated to assure no discharge. This will require the submittal of standard information required by the General Permit, in addition to other information that may be required by the RWQCB.

B. If any lakes are used as complete retention lakes, the project proponent shall develop and submit an operations plan, including supporting calculations, operating criteria, and other information as may be deemed necessary by the RWQCB, to verify that the lakes have capacity for and will be operated to contain the 100-year, 60-day runoff from the contributing drainage area.

C. The project proponent shall also include identification of any chemicals added to the lakes for water quality control or other reasons, as provided by Application Requirement 1b (1) in the General Permit. The project proponent shall also comply with all provisions of the General Permit, including monitoring and reporting provisions established by the RWQCB.

___X_10. Domestic Water Supply

In order to provide a suitable supply of domestic water for the project one of the following shall be done prior to issuance of building permits for the proposed Mathematics Institute:

A. apply for and obtain approval for connection to an approved public water system, including the completion of any required environmental review for water system extension; or

B. complete a comprehensive investigation and analysis of the hydrogeology and groundwater quality on the site to verify that a supply of domestic water of acceptable quality (per Title 22 Drinking Water Standards) can be provided for the life of the project; the results of this analysis shall be subject to review and approval by the State Department of Health Services and the Santa Clara County Health Department; or

C. modify the project to eliminate the need for provision of a public water supply; a "public water supply" is defined by Title 22 as "... a system for the provision of piped water to the public for human consumption that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year."

D. If the last option is selected, mitigation of the high groundwater-nitrate concentrations will require that the project proponent supply a safe and suitable drinking water supply that complies with all applicable drinking water quality limits; however, this could be met by the project proponent through the inclusion of a water treatment system or importation of certified potable water that will not necessarily qualify as a "public water system".

___X_ 11. Fire Protection Water Supply

A. Prior to issuance of building permits for renovating the existing restaurant building for its use as the headquarters for the American Institute of Mathematics, the project proponent shall augment existing water storage facilities on the project site (e.g., construct a water tank) to meet the fire protection water supply requirements as determined by the Fire Chief. The required amount of water shall be a function of building size and construction type.

___X_ 12. Groundwater Resource Depletion

The significant impact of the golf course irrigation on groundwater resources in the project vicinity shall be mitigated by implementing one of the following measures:

A. Reduce the amount of irrigated turf within the golf course to a maximum of approximately 85 to 100 acres of total turf and associate landscaped area, or otherwise reduce the irrigation water demand of the existing golf course by approximately 50 percent. The as-built golf course currently has approximately 128 acres of irrigated turf, including tees, greens, fairways and rough, plus approximately 50 additional acres of irrigated trees and other landscaping. This is a relatively large amount of turf for an 18-hole golf course. There are examples of golf courses recently constructed in the region with as little as 50 acres of irrigated turf. Reduction of the maintained turf areas by this amount will bring the water demand into an approximate balance with the local groundwater recharge conditions, thereby reducing the potential effect on groundwater levels by an equivalent amount. Reduction of the amount of turf will also reduce the fertilizer requirements and the associated groundwater-nitrate impact of the project.

B. While the information currently available indicates that the project could substantially impact groundwater levels, a detailed groundwater investigation shall be used to refine the mitigation (i.e., reduce on-site water use by approximately 50 percent) described above. The project proponent shall complete a much more detailed groundwater investigation to confirm that the proposed pumping of groundwater for golf course irrigation would not cause a significant decline in the water table at neighboring properties. The scope of this investigation will need to include an inventory of existing water wells, pumping rates, water level fluctuations and gradients, aquifer characteristics (e.g., transmissivity and storativity), and recharge rates. From this information, a groundwater budget and hydraulic model shall be developed to estimate the change in groundwater conditions caused by the pumping of groundwater for golf course irrigation. The scope of work and the results of this investigation shall be subject to review and approval by the Santa Clara Valley Water District.

Once the groundwater investigation is complete and approved by the Santa Clara Valley Water District and the City of Morgan Hill, the water usage on the project site shall be adjusted based on the results of the investigation (i.e., either increased or decreased). The groundwater investigation must be completed and approved by the Santa Clara Water District and the City of Morgan Hill within 6 months to avoid interim impacts to the groundwater basin and neighboring properties from the continued excessive use of water on the project site. If the investigation is not completed and approved within 6 months, then water use on the project site shall be reduced by approximately 50 percent, as described above. The Applicant may be required by the City and/or the Water District in the future to conduct additional monitoring and to take corrective action, if necessary, to ensure that no groundwater depletion is occurring.

C. Subject to further research, the use of recycled water to irrigate the golf course could be implemented to reduce the use of groundwater.

___X_13. According to the City of Morgan Hill Noise Ordinance, noise-generating construction activities are defined as including, but are not limited to, excavation, grading, paving, demolition, construction, alteration or repair of any building site, street, or highway, delivery or removal of construction material to a site or movement of construction materials on a site. These construction activities are prohibited other than between the hours of 7:00 AM to 8:00 PM, Monday through Friday, and between the hours of 9:00 AM and 6:00 PM on Saturday. Construction activities may not occur on Sundays or federal holidays.

___X_14. Construction operations shall use available noise suppression devices and techniques, and equipment shall be properly muffled and maintained.

___X_15. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices shall reduce construction related air quality impacts to a less than significant level.

A. Dust-proof chutes shall be used for loading construction debris onto trucks.

B. Watering shall be used to control dust generation during demolition of structures and break-up of pavement.

C. Cover all trucks hauling demolition debris from the site.

D. Water all active construction areas at least twice daily.

E. Watering or covering of stockpiles of debris, soil, sand or other materials that can be blown by the wind.

F. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.

G. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking, and staging areas at construction sites.

H. Sweep daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction sites.

I. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

J. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.

K. enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).

L. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

M. Replant vegetation in disturbed areas as quickly as possible.

___X_ 16. Odor Impacts

A. Existing and future grass clippings shall be collected and either: (1) composted on-site at a location and in a manner to be specifically addressed in the Planned Development Rezoning Permit; or (2) hauled to an off-site recycling facility; or (3) left on the golf course to compost "in situ".

___X_ 17. Special-Status Plant Species (Serpentine) Habitat

A. Since most of the impacts have already occurred, establishment of a conservation easement is the only mitigation measure available that could reduce this impact to a less than significant level. As recommended by the USFWS in the letter of July 15, 2003 (Appendix C of this EIR), the following mitigation measure shall reduce project impacts to serpentine habitat to a less than significant level:

1. In order to replace the serpentine habitat lost with equivalent habitat, purchase 51 acres of currently unprotected serpentine habitat and fund its management as habitat in perpetuity.

___X_ 18. Riparian Areas

A. Since the construction impacts within the riparian corridor have already occurred, the only mitigation available is to replace the riparian habitat removed. The following mitigation measure was identified to mitigate impacts to the riparian habitat removed:

1. The riparian habitat that was lost due to grading or other development activities within areas of canopy contiguous with riparian habitat shall be replaced along this same drainage at a ratio of 3:1. Pre-grading conditions on the site shall be determined by City Staff through the use of historic aerial photos and other historical documentation of the project site.

___X_ 19. Ordinance-Size Trees

A. Since most of the impacts have already occurred, replacement is the only mitigation measure available that would reduce this impact to a less than significant level. The numerous trees planted on the golf course are primarily non-native, and do not offer replacement habitat values.

B. The following steps shall be taken to mitigate for lost ordinance-size trees:

1. Appropriate on-site locations for new trees shall be identified by a qualified botanist or arborist. The proposed riparian setback area offers a potentially suitable site for the planting of native tree species. Mitigation for the removal of non-native, ordinance species shall be incorporated into the landscaping plan for the proposed development or they shall also be mitigated for with native plantings in the riparian setback area; and

2. Lost native trees greater than six inches in diameter shall be replaced at a 5:1 ratio*. This ratio shall be necessary to compensate for replacement trees that do not survive, and for the habitat values lost while replaced trees are maturing. Planting stock shall be collected locally. Planting shall be conducted from November to January using small nursery stock. The replacement trees shall be installed in an environment suitable for their establishment and growth. These trees shall be irrigated and maintained for a period of not less than three years. The mitigation site shall be protected from future disturbance and the restoration effort shall be monitored for five years. Annual status reports shall be provided to the Director of Planning. The size of the trees lost shall be estimated by City Staff from aerial photographs and other historic documentation. The equivalent number and type of trees removed and the number, type, size, and health of the new trees planted on the project site will be evaluated to determine if the equivalent value of the trees

removed is fully mitigated by the trees planted on the project site. If the value of the trees removed from the project site is not fully mitigated by the trees planted, additional native species trees will be planted on the project site, as determined by City Staff.

___X_ 20. California Red-legged Frog Habitat/Aquatic Habitat

Appropriate mitigation shall include either improving the potential on-site breeding habitat (Mitigation measures 1, 2, 3 and 5 below) or providing an off-site conservation easement for California red-legged frogs (Mitigation measures 2, 3, 4 and 5 below).

A. Mitigation 1 - Compensation by Establishment of On-site Breeding Areas - The project shall restore and expand the presumed former breeding pond and broaden the band of setbacks for the creek and the potential breeding ponds. The broadening of the setback surrounding the creek and potential breeding ponds will increase the potential for adult and juvenile red-legged frogs to disperse and forage along a corridor between the creek and the southeastern and the westernmost ponds. Because approximately three acres of potential breeding ponds were lost, at least nine acres of breeding ponds shall be restored for red-legged frog habitat. Potential breeding habitat shall include emergent aquatic vegetation to provide substrates for egg laying and associated upland habitat for foraging. The upland habitat shall be a buffer (an undisturbed area that protects habitat from human activities) of 200 feet that is maintained from the water's edge of individual breeding ponds and from the centerline of the creek. No human disturbance, landscaping, irrigation, turf areas or lighting shall be placed within the buffer area. No vehicles or other equipment including power lawn mowers shall operate within the buffer zone. Additionally, if any nocturnal maintenance activities occur on the site, an exclusion fence shall be installed and maintained to avoid "take" of red-legged frogs from vehicular activities. Additionally, Mitigation 2 and 3 shall be implemented.

B. Mitigation 2 - Manage Non-Native Predator Species (primarily the bullfrog) - Bullfrogs are non-native predators that reduce the long-term viability of a red-legged frog population. Although no bullfrogs or other non-native predators were detected on the project site, a non-native predator management plan that operates for the life of the golf course operation shall be implemented. The main components of this plan are to: 1) monitor all ponds for bullfrogs and other non-native predators on an annual basis, and 2) draw down any ponds that contain bullfrogs for two to three weeks in late September/early October. The timing of draw down shall be phased to ensure that red-legged frogs will continue to have available suitable wet areas. This draining of the ponds disrupts the two-year development cycle of the bullfrog and should substantially reduce or eliminate successful reproduction by bullfrogs in this area.

C. Mitigation 3 - Maintain Water Quality of Breeding Ponds - Water quality shall be monitored for the duration of the golf course operation by qualified personnel to ensure that golf course run-off does not impact breeding habitat for the red-legged frog. The water quality parameters to be sampled shall be in accordance with monitoring requirements established by the Regional Water Quality Control Board and, at a minimum, shall include nitrate, ammonia, total kjehdahl nitrogen, total dissolved solids, oil and grease (parking lot runoff only), and all landscaping chemicals used by the golf course. Emergent vegetation (e.g. cattails) established around pond edges will provide at least some biological filtering of run-off water and reduce the inflow of this run-off. All parking lot drains and all subdrains beneath tees and greens that discharge into the ponds shall include filtration or other treatment measures to minimize the potential for direct discharge of golf course chemicals or other surface runoff contaminants.

D. Mitigation 4 - Provide a Conservation Easement - The project proponent shall establish a conservation easement for red-legged frogs at a "to-be-determined" location. The final configuration of the easement (at least 51.2 acres of suitable red-legged frog habitat) will depend on the final mitigation design, which will be developed in conjunction with the USFWS. This easement will be in perpetuity. A conservation easement may be purchased as a part of a larger mitigation bank.

As stated in the July 15, 2003 letter from the USFWS, the 35 acres of serpentine habitat located in Kirby Canyon is of exceptional quality. If after evaluation the City of Morgan Hill agrees with the USFWS that this 35 acres of replacement habitat is equivalent to the mitigation requirement of 51 acres of serpentine habitat due to exceptional quality, and also provides 35 acres of red-legged frog habitat, then only16.2 additional acres of currently unprotected red-legged frog habitat will need to be purchased and funded for management as habitat in perpetuity.

E. Mitigation 5 - Compliance with Resource Agencies - The project proponent shall formally consult with the USFWS to obtain a biological opinion that the continued operation of the golf course will not jeopardize the continued existence of the species and then be issued an incidental take permit. This formal consultation can take the form of a Section 7 (via a Federal action) or a Section 10 (Habitat Conservation Plan). Discussions with the USFWS will determine the appropriate vehicle to process this request.

___X_ 21. California Tiger Salamander Aestivation/Breeding Habitat

Appropriate mitigation shall include either improving the potential on-site aestivation habitat and the breeding habitat on the westernmost ponds (Mitigation 1, 2, and 3) in order to expand the existing tiger salamander population or providing an off-site conservation easement for California tiger salamanders (Mitigation 4).

A. Mitigation 1 - Compensation by Establishment of On-site Breeding and Aestivation Habitat - The project shall restore and expand the presumed former breeding ponds and broaden the band of setbacks for the potential breeding ponds. The broadening of the setback surrounding the potential breeding ponds will increase the potential for adult and juvenile tiger salamanders to disperse and forage around the breeding ponds. Because approximately three acres of potential breeding ponds were lost, at least three acres of breeding ponds shall be restored for tiger salamander breeding habitat. Potential upland aestivation habitat shall be provided around the breeding ponds. The upland habitat shall be a buffer (an undisturbed area that protects habitat from human activities) of 200 feet that is maintained from the water's edge of individual breeding ponds. Additionally, large woody debris and/or stones shall be placed within this buffer to encourage burrow construction by ground squirrels and/or gophers. No rodenticides shall be used to kill any ground squirrels and/or gophers in the buffer area. No human disturbance, landscaping, irrigation, turf areas or lighting shall be placed within the buffer area. No vehicles or other equipment including lawn mowers shall operate within the buffer zone. If any nocturnal maintenance activities occur on the site, an exclusion fence shall be installed and maintained to avoid "take" of tiger salamanders from vehicular activities. Additionally, Mitigation 2 and 3 shall be implemented.

B. Mitigation 2 - Manage Non-Native Predator Species (primarily the bullfrog) - Bullfrogs are non-native predators that reduce the long-term viability of a California tiger salamander population. Although no bullfrogs or other non-native predators were detected on the project site, a non-native predator management plan that operates for the life of the golf course operation shall be implemented. The main components of this plan are to: 1) monitor all ponds for bullfrogs and

other non-native predators on an annual basis, and 2) draw down any ponds that contain bullfrogs for two to three weeks in late September/early October. The timing of drawn down will be phased to ensure that tiger salamanders will continue to have available suitable wet areas. This draining of the ponds disrupts the two-year development cycle of the bullfrog and should substantially reduce or eliminate successful reproduction by bullfrogs on the site.

C. Mitigation 3 - Maintain Water Quality of Breeding Ponds - Water quality shall be monitored for the duration of the golf course operation by qualified personnel to ensure that golf course run-off does not impact breeding habitat for the California tiger salamander. The water quality parameters to be sampled shall be in accordance with monitoring requirements established by the Regional Water Quality Control Board and, at a minimum, shall include nitrate, ammonia, total kjehdahl nitrogen, total dissolved solids, oil and grease (parking lot runoff only), and all landscaping chemicals used by the golf course. Emergent vegetation (e.g. cattails) established around pond edges will provide at least some biological filtering of run-off water and reduce the inflow of this run-off. All parking lot drains and all subdrains beneath tees and greens that discharge into the ponds shall include filtration or other treatment measures to minimize the potential for direct discharge of golf course chemicals or other surface runoff contaminants.

D. Mitigation 4 - Conservation Easement for California Tiger Salamanders - The project proponent shall establish a conservation easement for tiger salamanders at a "to-be-determined" location. The final configuration of the easement (at least three acres of ponds) and associated upland aestivation habitat will depend on the final mitigation design, which will be developed in conjunction with the CDFG. This easement will be in perpetuity. A conservation easement may be purchased as a part of a larger mitigation bank. Otherwise, the owner(s) may work with a land trust, preferably in the Mt. Hamilton Range Mountains to the east, or the owner(s) shall develop their own off-site mitigation easement. Any and all easements shall have a legal commitment, be guaranteed management for the purposes of maintaining a California tiger salamander population, and be approved by the CDFG. Consideration will be given to crediting on-site ponds for tiger salamander habitat, if they meet the relevant criteria.

___X_22. A "non-renewal notice" shall be filed by the City for the existing Williamson Act contract that is currently in force on the project site.

Other Conditions:

___X_23. The golf course shall be open for private use only from April 16th to September 30th and play on the golf course shall be limited to a maximum of 36 rounds of golf per day, seven days per week, from sunrise to sunset. Players shall not be allowed to use golf carts. Golf carts shall be used on the golf course for maintenance purposes only.

___X_24. As part of the Site, Architectural and Landscape application, and prior to the issuance of building permits for this project, the applicant shall submit a detailed landscape plan for review by the City. It shall be in the City's purview to determine if the row of trees along Foothill Avenue must be removed or diminished, or alternatively, that the trees are an appropriate part of the overall use of the site and can remain.

___X_25. The existing drainage conduit located at Maple Avenue (identified in Exhibit 1 attached hereto) shall be redesigned and resized to prevent localized flooding, to the satisfaction of the City Engineer, prior to the issuance of building permits.

__X__ 26. The existing culverts located at the private driveways downstream from the project site (identified in Exhibit 2 attached hereto) shall be resized to prevent localized flooding to the properties to the satisfaction of the City Engineer, prior to the issuance of building permits. The applicant shall coordinate all improvements with the County of Santa Clara and shall subject to property owner permission to enter the adjacent property.

__X__ 27. Fertilizers and other agricultural chemicals shall be applied by means other than through the irrigation spray system to avoid generation of noxious odors to neighboring residences.

__X__ 28. Any water tank required for fire suppression purposes shall be sited at a low elevation on the project site, to minimize impacts to the area view shed. Such tank shall be located adjacent to the main building areas and shall be visually screened by trees and other vegetation, to the satisfaction of the City.

X 29. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of Planned Unit Development (PUD) Zoning Amendment for this project. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

X 30. Allowance of continued operation of the golf course shall be dependent on the applicant's timely compliance with the requirements of the MMRP and prompt payments of all fees necessary to defray the City's expense in reviewing and monitoring compliance with the MMRP, including fees to cover City staff time, out of pocket expenses and administrative charges, and the fees of any consultants retained by the City to evaluate compliance with the MMRP or to oversee implementation of the MMRP in whole or in part. The City may from time to time require payment of estimated fees and expenses in advance of the performance of work by City Staff or consultants, and shall otherwise submit invoices to the Applicant for such fees and expenses as they are incurred or on a periodic basis. Such invoices shall be paid by the Applicant within 30 days of the date of the invoice. The Applicant's failure to pay invoices in a timely manner may result in the City's suspension of the Applicant's right to operate the golf course, the delay or denial of permits sought by the Applicant for construction of additional facilities contemplated in the PUD zoning, and/or revocation of the zoning approval.

❦AFFIDAVIT❦

I, **STEPHEN SORENSON,** on behalf of the applicant, hereby agree to accept and abide by the terms and conditions specified in Ordinance No. 1687, New Series and Exhibit C, "Conditions of Approval, Including Mitigation Measures Not Presently Incorporated into the Proposed Project". I represent and warrant that I have the authority on behalf of the applicant to execute this document.

STEPHEN SORENSON, On Behalf of Applicant

Date: 9/9/04

RESOLUTION NO. 06-013

A RESOLUTION OF THE ARCHITECTURAL REVIEW BOARD OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF SITE, LANDSCAPE AND ARCHITECTURAL PLANS FOR AN APPROXIMATELY 167,500 SQ. FT. MATHEMATICS CONFERENCE CENTER WITH A 34,385 SQ. FT. UNDERGROUND PARKING GARAGE AND A NEW SURFACE PARKING LOT TO REPLACE AN EXISTING PARKING LOT ON A PARCEL OF APPROXIMATELY 54 ACRES LOCATED AT 14830 FOOTHILL AVE WITHIN THE PLANNED UNIT DEVELOPMENT ZONING DISTRICT. (APN's 825-30-007& 825-29-002)

WHEREAS, such request was considered by the Architectural Review Board at their regular meeting of May 18, 2006 at which time the Architectural Review Board recommended approval of site review application SR-06-03: Foothill – The Institute; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL ARCHITECTURAL REVIEW BOARD DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. Although the maximum height limit in the underlying zoning district is 25 feet, the Zoning Ordinance allows places of public assembly, such as schools and other public and semi-public buildings to exceed height provided that side and rear yard setbacks are increased by one foot for each additional foot of height to a maximum of 50 feet, **unless otherwise approved by the ARB**. Using the methodology contained in the building height definition, the conference center has been calculated to be 62 feet high. With proposed side and rear setbacks of 270 and 300 feet, respectively, the building can exceed 50 feet in height. The visual simulations prepared for the project demonstrate that the project does not constitute ridgeline development and is not a focal point from any significant public viewing area. Further, the site is not within a designated scenic corridor. The Board therefore supports the height of the building as proposed.

SECTION 2. An Environmental Impact Report has been prepared for this project. Mitigation measures will be made conditions of project approval.

SECTION 3. The Board recommends that the project be subject to the conditions attached hereto, as Exhibit "A", and by this reference incorporated herein.

PASSED AND ADOPTED THIS 18th DAY OF MAY, 2006, AT A REGULAR MEETING OF THE ARCHITECTURAL REVIEW BOARD BY THE FOLLOWING VOTE:

AYES:	**BOARD MEMBERS:**	**FRUIT, MARTIN, PYLE**
NOES:	**BOARD MEMBERS:**	**NONE**
ABSTAIN:	**BOARD MEMBERS:**	**NONE**
ABSENT:	**BOARD MEMBERS:**	**KENNETT**

ATTEST:

ERIC MARLATT, Senior Planner

APPROVED:

ROD MARTIN, Chair

AFFIDAVIT

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

_____
Kevin Robins, Applicant

_____
Date

Exhibit "A"
Conditions of Approval
SR-06-03: Foothill – The Institute

X 1. The Site and Architectural approval granted under this Resolution shall remain in effect for one year from the date of City Council approval. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. **(PLNG - MHMC 18.74.250)**

X 2. Final site development plans shall be reviewed and approved by the Community Development Department prior to issuance of a building permit. All such plans shall include:

a. Detail depicting all concrete curbs as full formed.

b. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing. **(MHMC 18.74.370)**

c. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities. **(MHMC 18.50.110; 18.74.470)**

d. Trash enclosures shall be constructed of a sturdy, opaque material, minimum 6 feet in height with solid view obstructing gates and shall be designed in harmony with the architecture of the building(s). **(MHMC 18.74.505)**

e. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. **(MHMC 18.74.320)** For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.

f. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building. **(PLNG)**

X 3. All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 ft. or greater to match the height of any proposed equipment. **(PLNG - MHMC 18.74.320)**

X 4. Roof top lighting is not approved for any building within the project. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development. Adjustment to the lighting intensity may be required after the commencement of the use. All parking lot lighting shall be high pressure sodium. **(PLNG)**

X 5. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior. **(PLNG -MHMC 18.74.360)**

X 6. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building. **(PLNG -MHMC 18.74.340)**

X 7. The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by Section 18.74.560(d) of the Design Review Ordinance. Bond amount shall be based on the assigned value of $2.50 per square foot of area of planting and irrigation improvements. **(PLNG - MHMC 18.74.560)**

X 8. Detailed landscape planting and irrigation working drawings shall be submitted to the Community Development Department for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal. **(PLNG)**

X 9. All trees within approved landscape plans shall be of a minimum fifteen gallon size, except for the nine olive trees lining the pedestrian walkway in the center of the parking lot, which shall be 24-inch box. The nine olive trees shall be located within a minimum 42-inch container. All shrubs shall be minimum 5 gallon size unless otherwise approved by the Community Development Director. **(PLNG)**

X 10. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this conditional use permit. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions. **(PLNG)**

X 11. Submit two (2) signed copies of Approval Certificate/Resolution No. 06-013 to the Planning Division prior to issuance of building permits. **(PLNG)**

X 12. The applicant shall be subject to compliance with the mitigation measures of the project environmental assessment. **(PLNG)**

X 13. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. Should the applicant propose the use of development and/or construction standards for any improvement and/or land uses, which are different than those presently set forth in the City's codes and ordinances, such alternative standards must be presented and approved by the Director of Public Works. The applicant shall cause Standard Specifications and Standard Drawings to be prepared in a format to be approved by the Director of Public Works. **(PW-MHMC 17.32.080)**

X 14. Obtain necessary encroachment permits from City of Morgan Hill/County of Santa Clara/ State of California/ Santa Clara Valley Water District, and provide guarantee covering off-site improvements. **(PW-MHMC 12.08.040 A)**

X 15. Enter into an Improvement Agreement with the City of Morgan Hill to cover required improvements. **(PW-MHMC 17.32.160)**

X 16. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established ten specific categories of impact fees to finance the cost of improvements required by new development. The City Council has chosen to implement certain fees, withhold implementation of certain fees, and stage the implementation of certain fees. City Code Chapter 3.56.050 provides for automatic annual (July 1) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. Those fees which a developer elects to defer shall be subject to the fees in effect at the time of development of a lot (issuance of building permit). The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. **(PW)**

X 17. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with both the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. **(PW-MHMC 17.32.060)**

X 18. Prior to issuance of a building permit for The Institute building

or obtaining final approval of the golf course, the following conditions shall be met:

a. Submit offsite improvement plans prepared by a licensed civil engineer to the Public Works Department that includes the following:

i. Asphalt shoulder along entire frontage on Foothill Avenue.

ii. Widening of Foothill Avenue near entrance of proposed project to include an acceleration-deceleration lane.

iii. Drainage improvements along Foothill Avenue to be approved by the Director of Public Works.

iv. Underground overhead utilities along entire property frontage on Foothill Avenue or request to pay in-lieu fee for undergrounding.

b. Submit on-site grading plans for review and approval including storm water retention plans and calculations in accordance with City Standards. **(PW)**

X 19. The applicant, at his or her expense, shall have a registered civil engineer prepare a complete sewer system capacity study of the on- and off-site sewer system which will service the project (both upstream and downstream). The study shall meet the approval of the Director of Public Works. All needed improvements shall be installed by the applicant. No downstream overloading of existing sewer system will be permitted. **(PW-MHMC 17.32.090)**

X 20. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on site. Collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. **(PW-MHMC 17.32.020 C)**

X 21. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. **(PW-MHMC 13.24.080)**

X 22. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. **(PW-MHMC 17.32.090)**

X 23. Collection system shall be designed to be capable of handling a year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Whereas, on-site retention facilities shall be designed to a 100 year storm capacity. Items of construction shall include, but not be limited to Installation of storm line extension on site surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. **(PW-MHMC 17.32.080)**

X 24. Prior to issuance of a building permit, the applicant shall complete the following to the satisfaction of the Santa Clara Valley Water District and Director of Public Works.

1. Storm drain calculations to determine detention pond sizing and operations.
2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
3. Storm Water Pollution Prevention Plan. **(PW)**

X 25. Since the developed portion of this site encompasses more than 1 acre, a Storm Water Pollution Prevention Plan (SWPPP) will be required as a provision of the state's General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities. The SCVWD requests a copy of the SWPPP for their information (SCVWD). **(PW)**

X 26. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works. **(PW-MHMC 17.32.020 E.1)**

X 27. An industrial waste discharge permit is required from the Chemical Control Program prior to any industrial wastewater discharge (non-domestic) to the sanitary sewer system. The business owner/operator shall complete an owner/operator form to City of Gilroy, Attention Jonathan Crick, 7531 Rosanna Street, Gilroy, CA 95020. The permit shall be maintained and renewed as required. The pretreatment program shall issue the permit during the building final inspection process. **(PRTRT)**

X 28. All new non-residential buildings shall have a sewer test manhole installed on the property (see City Specifications) and in an area that can be readily accessed by an inspector, (minimum of one for each building). Show sewer test manholes on future plans. For tenants with industrial waste treatment systems, a separate sewer test manhole shall be required. **(PRTRT)**

X 29. All cooking and food preparation facilities shall be provided with a grease trap or clarifier, sized for the anticipated flows.

No garbage disposals are allowed. Submit plans showing the details of the kitchen (e..g. equipment, fixtures, deep fryers, sinks, dishwasher, plumbing and sewer connections). See Chemical Control Grease Interceptor Policy Documents for sizing and type. **(PRTRT)**

X 30. Drain plumbing for the underground parking garage must be connected to an oil/water separator sized for anticipated flows by a professional engineer and connected to the sanitary sewer. **(PRTRT)**

X 31. Pool/spa wastewater shall be drained to a floor sink leading to the sanitary sewer. **(PRTRT)**

X 32. Landry wastewater plumbing shall be fitted with an easily accessible simple screening device to remove hair and lint from wastewater (e.g. lint trap, removable screen, etc.) **(PRTRT)**

X 33. Ensure that the sanitary sewer manholes lids are properly labeled, "Sanitary Sewer," and storm drain manholes lids are properly labeled "Storm Drain." **(PRTRT)**

X 34. Garbage dumpster areas that are covered my have a screened drain to an interceptor leading to public sewer. For all uncovered garbage areas and if a sewer drain is installed, the drain shall be screened and shall be fitted with a removable cap. The cap will be in place to prevent rainwater from entering the sewer system and can be removed during cleaning operations. **(PRTRT)**

X 35. Vehicle washing or other washing operations that may generate oily residues shall be drained to a sand-oil water separator. Rainwater is prohibited from entering the separator. **(PRTRT)**

X 36. Industrial Water Softening systems (resin cartridges) may not be regenerated on site. A cartridge change-out type system is permitted. **(PRTRT)**

X 37. Inspections by a Chemical Control Inspector are required prior to final building/TI. Call 408.846.0436 at least 48 hours in advance to schedule an inspection with Jonathan Crick. **(PRTRT)**

X 38. Required Fire Flow. Required fire flow for this project is 6,000 GPM at 20 psi residual pressure. As an automatic fire sprinkler system will be installed, the fire flow has been reduced by 75% establishing a required adjusted fire flow of 1,500 gpm (plus sprinkler system demand) at 20 psi residual pressure for 4 hours. Applicant must provide a 4 hour supply of water is system is not connected to municipal water supply. **(FIRE-UFC Appendix III-A)**

X 39. Applicant is providing pumps with a backup generator to obtain the required fire flow. The fire flow must be tested and accepted in the generator mode prior to the start of combustible construction. **(FIRE)**

X 40. Final building plans shall show a maximum 5% slope for fire department turn around at the rear of the building. **(FIRE)**

X 41. Final building plans shall indicate that the bridge across the access road will be of combustible construction. **(FIRE)**

X 42. Final building plans shall delineate the access road from Foothill Road to the conference center parking lot. **(FIRE)**

X 43. The applicant shall comply with applicable provisions of the City's building security ordinance. Exterior lighting shall comply with criteria specified in the Design Review Ordinance. **(POLICE-MHMC 18.74.370)**

X 44. Where electronic security gates are provided to a development, a voice intercom or phone and electric gate control shall be provided. Gate location shall be designed to provide adequate area for turn around of vehicles. **(POLICE)**

X 45. Building shall be pre-wired to provide a hard wire burglar alarm system. This shall include any windows or doors at ground level and including any windows capable of being reached without ladders from the building's exterior. The wire shall be laid in conduit. This condition does not include the actual alarm system, but only the pre-wiring for desired hookup at a later date. **(POLICE)**

X 46. All exterior transoms, glass skylights, and other openings of glass which are accessible from any surface on the premises shall be constructed of burglary- resistant glass or equally resistant glasslike material or secured on the inside with the following protective devices:

- Iron bars of at least one-half (½) inch round or one (1) inch x one-quarter (1/4) inch flat steel material no more than five (5) inches apart and securely fastened; or
- Iron or steel grills of at least one-eighth (1/8) inch thickness with mesh not to exceed two (2) inches secured with non-removable type screws. **(POLICE-MHMC 15.40.250)**

X 47. All hatchway openings shall be secured with the following protective devices:

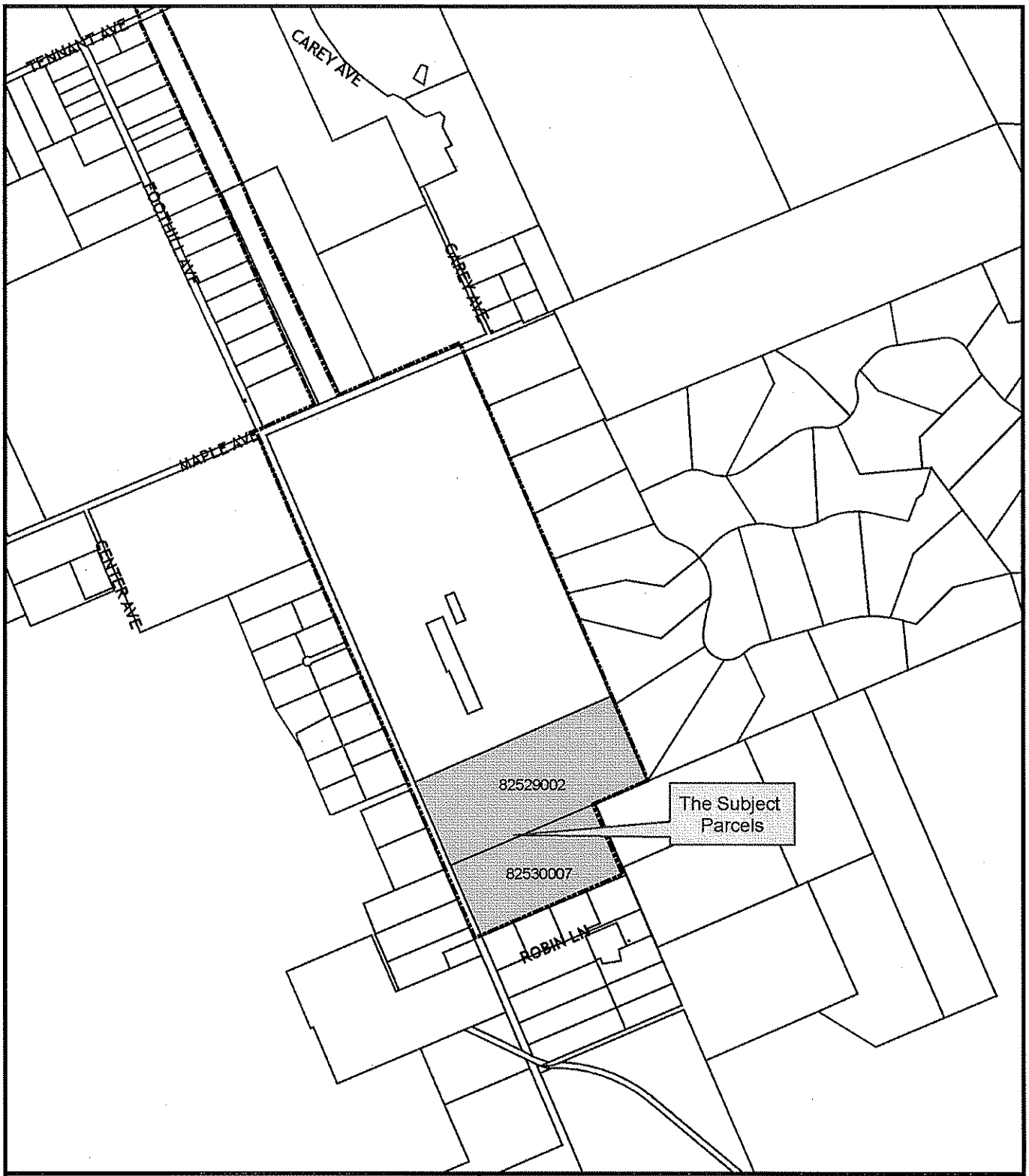
- If the hatchway is of wooden material, it shall be covered on the inside with at least sixteen (16) gauge sheet steel, or its equivalent, attached with screws.
- The hatchway shall be secured from the outside with a slide bar or slide bolt with a minimum of one (1) inch throw. The use of a crossbar or padlock must be approved by the Fire Department.
- Outside hinges on all hatchway openings shall be provided with non-removable pins using pin-type hinges. **(POLICE-MHMC 15.40.280)**

X 48. All air duct or air vent openings exceeding eight (8) inches x twelve (12) inches on the roof or exterior walls of any building shall be secured by covering the same with either of the following:

- Iron bars of at least one-half (½) inch round or one (1) inch x one-quarter (1/4) inch flat steel material, spaced no more than five (5) inches apart and securely fastened; or
- Iron or steel grills of at least one-eighth (1/8) inch thickness with mesh not to exceed two (2) inches and secured with non-removable type screws.
- If the barrier is on the outside, it shall be secured with galvanized round-head through bolts of at least three-eighths (3/8) inch diameter on the outside. **(POLICEMHMC 15.40.290)**

X 49. Prior to final inspection, the applicant shall contact Morgan Hill Post Office regarding delivery of mail. **(PO)**

X 50. All of the applicable conditions imposed by the City Council as part of Ordinance No. 1687 shall be in full effect. **(PLNG)**



0 462.5 925 1,850 2,775 3,700 Feet

ZAA-03-03: Foothill - The Institute

Vicinity Map

Legend

City Boundary

CITY OF MORGAN HILL

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